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INCIDENTS

IN THE LIFE OF

MATTHEW HALE;

EXHIBITING

HIS MORAL AND RELIGIOUS CHARACTER.

BY GILBERT BURNET, D. D.

AUTHOR OF A HISTORY OF THE REFORMATION.

WITH

Baxter's Recollections of Hale.

Revised American Edition.

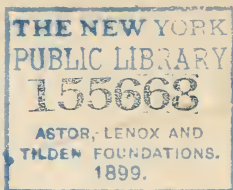
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PREFACE.

No part of history is more instructive and delighting than the lives of great and worthy men: the shortness of them invites many readers; and there are such little and yet remarkable passages in them, too inconsiderable to be put in a general history of the age in which they lived, that all people are very desirous to know them.

This short history will contain in it as great a character, as perhaps can be given of any in this age, since there are few instances of more knowledge and greater virtues meeting in one person. I was upon one account, besides many more, unfit to undertake it, because I was not at all known to him; so I can say nothing from my own observation. But I do not know whether this may not qualify me to write more impartially, though perhaps more defectively; for the knowledge of extraordinary persons does most commonly bias those who were much wrought on by the tenderness of their friendship for them, to raise their style a little too high when they write concerning them. I confess I knew him as much as the looking often upon him could amount to. The last year of his being in London, he came always on Sundays, when he could go abroad, to the chapel of the Rolls, where I then preached. In my life I never saw so much gravity, tempered with that sweetness, and set off with so much vivacity, as appeared in his looks and behaviour, which disposed me to a veneration for him, which I never had for any with whom I was not acquainted. I was seeking an opportunity of being admitted to his conversation; but I understood that, between a great want of health, and a multiplicity of business, which his employment

PREFACE.

brought upon him, he was master of so little of his time, that I stood in doubt whether I might presume to rob him of any of it ; and so he left the town before I could resolve on being known to him.

The occasion of my undertaking this work was given me by the earnest desires of some that have great power over me, who, having been much obliged by him, and holding his memory in high estimation, thought I might do it some justice by writing his life. I was then engaged in the History of the Reformation, so I promised that, as soon as that was over, I would make the best use I could of such informations and memorials as should be brought me.

This I have now performed in the best manner I could, and have brought into method all the parcels of his life, or the branches of his character, which I could either gather from the informations that were brought me, or from those that were familiarly acquainted with him, or from his writings. I have not applied any of the false colours with which art, or some forced eloquence might furnish me in writing concerning him ; but have endeavoured to set him out in the same simplicity in which he lived. I have said little of his domestic concerns, since though in these he was a great example, yet it signifies nothing to the world, to know any particular exercises that might be given to his patience, and therefore I shall draw a veil over all these, and shall avoid saying any thing of him but what may afford the reader some profitable instruction. I am under no temptations of saying any thing but what I am persuaded is exactly true ; for where there is so much excellent truth to be told, it were an inexcuseable fault to corrupt that, or prejudice the reader against it, by the mixture of falsehoods with it.

As he was a great example while he lived, so I wish the setting him thus out to posterity, in his own true and native colours, may have its due influence on all persons ; but more particularly on those of that profession whom it more immediately concerns, whether on the bench or at the bar.

THE LIFE OF

SIR MATTHEW HALE.

CHAPTER I.

HIS BIRTH AND ANCESTRY....HIS EARLY
CHARACTER.

MATTHEW HALE was born at Alderley in Gloucestershire, Eng. the 1st of November, 1609. His grandfather was Robert Hale, an eminent clothier at Wotton-under-Edge, in that county, where he and his ancestors had lived for many generations; and they had given several parcels of land for the use of the poor, which are enjoyed by them to this day. This Robert acquired an estate of ten thousand pounds, which he divided almost equally amongst his five sons, besides the portions he gave his daughters, from whom a numerous posterity has sprung. His second son was Robert Hale, a barrister of Lincoln's-inn; he married Joan, the daughter of Matthew Poyntz, Esq. of Alderley, who was descended from that noble family

of the Poyntz's of Acton. Of this marriage there was no other issue but this one son. His grandfather, by his mother, gave him his own name. His father was a man of that strictness of conscience, that he gave over the practice of the law, because he could not understand the reason of giving colour in pleadings, which, as he thought, was to tell a lie ; and that, with some other things commonly practised, seemed to him contrary to that exactness of truth and justice which became a Christian ; so that he withdrew himself from the inns of court to live on his estate in the country. Of this I was informed by an ancient gentleman that lived in a friendship with his son for fifty years, and he heard Judge Jones, who was Mr. Hale's contemporary, declare this in the King's Bench. But as the care he had to save his soul made him abandon a profession in which he might have raised his family much higher, so his charity to his poor neighbours made him not only deal his alms largely among them while he lived, but at his death, in 1614, he left out of his small estate, which was but 100*l.* a year, 20*l.* a year to the poor of Wotton, which his son confirmed to them with some addition, and with this regulation, that it should be distributed among such poor housekeepers as did not receive the alms of the parish ; for to give it to those, was only, as he used to say, to save so much money to the rich, who by law were bound to relieve the poor of the parish.

Thus he was descended rather from a good

than a noble family ; and yet what was wanting in the insignificant titles of high birth and noble blood, was more than made up in the true worth of his ancestors. But he was soon deprived of the happiness of his father's care and instruction, for as he lost his mother before he was three years old, so his father died before he was five ; so early was he cast on the providence of God. But that unhappiness was in a great measure made up to him : for after some opposition made by Mr. Thomas Poyntz, his uncle by his mother, he was committed to the care of Anthony Kingscot, Esq. of Kingscot, who was his next kinsman after his uncles by his mother.

Great care was taken of his education, and his guardian intended to educate him to be a divine, and being inclined to the way of those then called Puritans, put him to some schools that were taught by those of that party, and in 1626, in the seventeenth year of his age, sent him to Magdalen Hall in Oxford, where Obadiah Sedgwick was his tutor. He was an extraordinary proficient at school, and for some time at Oxford ; but the stage-players coming thither, he was so much corrupted by seeing many plays, that he almost wholly forsook his studies. By this he not only lost much time, but found that his head came to be thereby filled with such vain images of things, that they were at best unprofitable, if not hurtful to him ; and being afterwards sensible of the mischief of this, he resolved, upon his coming to London, where he knew the opportunities of such sights

would be more frequent and inviting, never to see a play again ; to which he constantly adhered.

The corruption of a young man's mind in one particular, generally draws on a great many more after it ; so he being now taken off from following his studies, and from the gravity of his deportment, that was formerly eminent in him far beyond his years, set himself to many of the vanities incident to youth ; but still preserved his purity, and a great probity of mind. He loved fine clothes, and delighted much in company ; and being of a strong, robust body, he was a great master at all those exercises that required much strength. He also learned to fence, and handle his weapons, in which he became so expert, that he worsted many of the masters of those arts : but as he was exercising himself in them, an instance appeared that showed a good judgment, and gave some hopes of better things. One of his masters told him he could teach him no more, for he was now better at his own trade than himself was. This Mr. Hale looked on as flattery ; so, to make the master discover himself, he promised him the house he lived in, for he was his tenant, if he would hit him a blow on the head ; and bade him do his best, for he would be as good as his word : so after a little engagement, his master, being really superior to him, hit him on the head, and he performed his promise, for he gave him the house freely ; and was not unwilling at that rate to learn so early to distinguish flattery from plain and simple truth.

He was now so taken up with martial matters,

that, instead of going on in his design of being a scholar or a divine, he resolved to be a soldier ; and his tutor Sedgwick going into the Low Countries, chaplain to the renowned lord Vere, he resolved to go along with him, and to trail a pike in the Prince of Orange's army ; but a happy stop was put to this resolution, which might have proved so fatal to himself, and have deprived the age of the great example he gave, and the useful services he afterwards did his country. He was engaged in a suit of law with Sir William Whitmore, who laid claim to some part of his estate ; and his guardian being a man of a retired temper, and not made for business, he was forced to leave the university, after he had been three years in it, and go to London to solicit his own business, being recommended for the purpose to serjeant Glanvil for his counsellor ; and he, observing in him a clear apprehension of things, and a solid judgment, and a great fitness for the study of the law, took pains upon him to persuade him to forsake his thoughts of being a soldier, and to apply himself to the study of the law : and this had so good an effect on him, that on the 8th of November, 1629, when he was past the twentieth year of his age, he was admitted into Lincoln's-inn ; and being then deeply sensible how much time he had lost, and that idle and vain things had overrun and almost corrupted his mind, he resolved to redeem the time he had lost, and followed his studies with a diligence that could scarcely be believed, if the signal effects of it did not gain it credit. He studied for many

years at the rate of sixteen hours a day : he threw aside all fine clothes, and betook himself to a plain fashion, which he continued to use, in many points, to his dying day.

But since the honour of reclaiming him from the idleness of his former course of life is due to the memory of that eminent lawyer, serjeant Glenvil, and since my design in writing is to propose a pattern of heroic virtue to the world, I shall mention one passage of the serjeant which ought never to be forgotten. His father had a fair estate, which he intended to settle on his elder brother ; but he being a vicious young man, and there appearing no hope of his recovery, he settled it on him, that was his second son. Upon his death, his eldest son, finding that what he had before looked on as the threatenings of an angry father, was now but too certain, became melancholy, and that by degrees wrought so great a change on him, that what his father could not prevail in while he lived, was now effected by the severity of his last will, so that it was now too late for him to change in hopes of an estate that was gone from him. But his brother, observing the reality of the change, resolved within himself what to do : so he called him with many of his friends together to a feast, and after other dishes had been served up to the dinner, he ordered one that was covered to be set before his brother, and desired him to uncover it ; which he doing, the company were surprised to find it full of writings. So he told them, that he was now to do what he was sure his father would have done, if he

had lived to see that happy change which they now all saw in his brother ; and therefore he freely restored to him the whole estate. This is so great an instance of a generous and just disposition, that I hope the reader will easily pardon this digression, and that the rather since that worthy serjeant was so instrumental in the happy change that followed in the course of Mr. Hale's life.

Yet Mr. Hale did not at first break off from keeping too much company with vain people, till a sad accident drove him from it ; for he, with some other young students, being invited to be merry out of town, one of the company called for so much wine, that notwithstanding all that Mr. Hale could do to prevent it, his friend went on in his excess till he fell down as dead before them, so that all that were present were not a little affrighted at it, who did what they could to bring him to himself again. This did particularly affect Mr. Hale, who thereupon went into another room, and, shutting the door, fell on his knees, and prayed earnestly to God, both for his friend that he might be restored to life again, and that himself might be forgiven for giving such countenance to so much excess : and he vowed to God, that he would never again keep company in that manner, nor drink a health while he lived. His friend recovered, and he most religiously observed his vow till his dying day. And though he was afterwards pressed to drink healths, particularly the king's, which was set up by too many as a distinguishing mark of loyalty, and drew many into great

excess after his majesty's happy restoration ; yet he would never dispense with his vow, though he was sometimes roughly treated for this, which some hot and indiscreet men called obstinacy.

This wrought an entire change on him. Now he forsook all vain company, and divided himself between the duties of religion and the studies of his profession ; in the former he was so regular, that for six and thirty years' time he never once failed going to church on the Lord's-day : this observation he made when an ague first interrupted that constant course ; and he reflected on it, as an acknowledgment of God's great goodness to him, in so long a continuance of his health.

He took a strict account of his time, of which the reader will best judge by the scheme he drew for a diary, which I shall insert, copied from the original ; but I am not certain when he made it. It is set down in the same simplicity in which he wrote it for his own private use.

MORNING.

- I. To lift up the heart to God in thankfulness for renewing my life.
- II. To renew my covenant with God in Christ. 1. By renewed acts of faith receiving Christ, and rejoicing in the height of that relation. 2. Resolution of being one of his people, doing him allegiance.
- III. Adoration and prayer.
- IV. Setting a watch over my own infirmities and passions, over the snares laid in our way. We perish through our lusts.

DAY EMPLOYMENT.

There must be an employment, two kinds.

- I. Our ordinary calling, to serve God in it. It is a service to Christ, though never so mean — Coloss. 3. Here faithfulness, diligence, cheerfulness. Not to overlay myself with more business than I can bear.

II. Our spiritual employments: mingle somewhat of God's immediate service in this day.

REFRESHMENTS.

- I. Meat and drink, moderation seasoned with somewhat of God.
 II. Recreations. 1. Not our business. 2. Suitable. No games, if given to covetousness or passion.

IF ALONE.

- I. Beware of wandering, vain, lustful thoughts; fly from thyself rather than entertain these.
 II. Let thy solitary thoughts be profitable; view the evidences of thy salvation, the state of thy soul, the coming of Christ, thy own mortality; it will make thee humble and watchful.

COMPANY.

Do good to them. Use God's name reverently. Beware of leaving an ill impression of ill example. Receive good from them, if more knowing.

EVENING.

Cast up the accounts of the day. If aught amiss, beg pardon. Gather resolution of more vigilance. If well, bless the mercy and grace of God that hath supported thee.

These notes have an imperfection in the wording of them, which shows they were only intended for his privacies. No wonder a man who set such rules to himself, became quickly very eminent and remarkable.

Noy, the attorney-general, being then one of the greatest men of the profession, took early notice of him, and called often for him, and directed him in his study, and grew to have such friendship for him, that he came to be called "Young Noy." He, passing from the extreme of vanity in his apparel, to that of neglecting himself too much, was once taken when there was a press for the king's service, as a fit person for it; for he was a strong and well built man. But some that knew him coming by, and giving notice who he was, the press-men let him go. This made him return

to more carefulness in his clothes, but never to any superfluity or vanity in them.

Once, as he was buying some cloth for a new suit, the draper with whom he differed about the price, told him he should have it for nothing, if he would promise him a hundred pounds when he came to be lord chief justice of England; to which he answered, "That he could not with a good conscience wear any man's cloth unless he paid for it;" so he satisfied the draper, and carried away the cloth. Yet that same draper lived to see him advanced to that same dignity.

While he was thus improving himself in the study of the law, he not only kept the hours of the hall constantly in term time, but seldom put himself out of commons in vacation time, and continued then to follow his studies with an unwearied diligence; and, not being satisfied with the books written about it, or to take things upon trust, was very diligent in searching all records. Then did he make divers collections out of the books he had read, and, mixing them with his own observations, digested them into a common-place book; which he did with so much industry and judgment, that an eminent judge of the king's bench borrowed it of him when he was lord chief baron. He unwillingly lent it, because it had been written by him before he was called to the bar, and had never been thoroughly revised by him since that time; only what alterations had been made in the law by subsequent statutes and judgments, were added by him as they had happened; but the

judge having perused it, said, that though it was composed by him so early, he did not think any lawyer in England could do it better, except he himself would again set about it.

CHAPTER II.

SIR MATTHEW HALE'S LOVE OF LEARNING.... HIS
RELIGIOUS KNOWLEDGE HIS APPOINTMENT AS
JUDGE OF COMMON PLEAS, UNDER CROMWELL.

HE was soon found out by that great and learned antiquary, Mr. Selden, who, though much superior to him in years, yet came to have such a liking for him, and of Mr. Vaughan, who was afterwards lord chief justice of the Common Pleas, that as he continued in a close friendship with them while he lived, so he left them, at his death, two of his four executors.

It was this acquaintance that first set Mr. Hale on a more enlarged pursuit of learning, which he had before confined to his own profession; but, becoming as great a master in it as ever any was, very soon, he who could never let any of his time go away unprofitably, found leisure to attain to as great a variety of knowledge in as comprehensive a manner as most men have done in any age.

He set himself much to the study of the

Roman law, and though he liked the way of judicature in England by juries much better than that of the civil law, where so much was trusted to the judge, yet he often said, that the true grounds and reasons of law were so well delivered in the Digests, that a man could never understand law as a science so well as by seeking it there, and therefore lamented much that it was so little studied in England.

He looked on readiness in arithmetic as a thing which might be useful to him in his own employment; and acquired it to such a degree, that he would often on a sudden, and afterwards on the bench, resolve very hard questions, which had puzzled the best accountants about town. He rested not here, but studied the algebra both speciosa and numerosa, and went through all the other mathematical sciences, and made a great collection of very excellent instruments, sparing no cost to have them as exact as art could make them. He was also very conversant in philosophical learning, and in all the curious experiments and rare discoveries of this age: and had the new books written on those subjects sent him from all parts, which he both read and examined so critically, that if the principles and hypotheses which he took first up did any way prepossess him, yet those who have differed most from him have acknowledged, that in what he has written concerning the Torricellian experiment, and of the rarefaction and condensation of the air, he shows as great an exactness, and as much subtilty in the reasoning he builds on them, as those principles to which he ad-

hered could bear. But indeed it will seem scarcely credible, that a man so much employed, and of so severe a temper of mind, could find leisure to read, observe, and write so much of these subjects as he did. He called them his diversions ; for he often said, when he was weary with the study of the law or divinity, he used to recreate himself with philosophy or the mathematics. To these he added great skill in physic, anatomy, and chirurgery. And he used to say, no man could be absolutely a master in any profession, without having some skill in other sciences ; for besides the satisfaction he had in the knowledge of these things, he made use of them often in his employments. In some examinations he would put such questions to physicians or chirurgeons, that they have professed the College of Physicians could not do it more exactly ; by which he discovered great judgment as well as much knowledge in these things. And in his sickness he used to argue with his doctors about his distempers, and the methods they took with them, like one of their own profession ; which one of them told me he understood, as far as speculation without practice could carry him.

To this he added great searches into ancient history, and particularly into the roughest and least delightful part of it, chronology. He was well acquainted with the ancient Greek philosophers ; but want of occasion to use it wore out his knowledge of the Greek tongue ; and though he never studied the Hebrew tongue, yet by his great conversation with Selden, he understood

the most curious things in the Rabbinical learning.

But above all these, he seemed to have made the study of divinity the chief of all others, to which he not only directed every thing else, but also arrived at that pitch in it, that those who have read what he has written on these subjects, will think they must have had most of his time and thoughts. It may seem extravagant, and almost incredible, that one man in no great compass of years should have acquired such a variety of knowledge, and that in sciences which require much leisure and application. But as his parts were quick and his apprehensions lively, his memory great and his judgment strong, so his industry was almost indefatigable. He rose always betimes in the morning, was never idle, scarcely ever held any discourse about news, except with some few in whom he confided entirely. He entered into no correspondence by letters, except about necessary business, or matters of learning, and spent very little time in eating and drinking; for as he never went to public feasts, so he gave no entertainments but to the poor; for he followed our Saviour's direction, of feasting none but these, literally: and in eating and drinking, he observed not only great plainness and moderation, but lived so philosophically, that he always ended his meal with an appetite; so that he lost little time at it (that being the only portion which he grudged himself), and was disposed to any exercise of his mind to which he thought fit to apply himself, immediately after he had dined. By these

means he gained much time, that is otherwise unprofitably wasted.

He had also an admirable equality in the temper of his mind, which disposed him for whatever studies he thought fit to turn himself to; and some very uneasy things which he lay under for many years, did rather engage him to, than distract him from, his studies.

When he was called to the bar, and began to make a figure in the world, the late unhappy wars broke out, in which it was no easy thing for a man to preserve his integrity, and to live securely, free from great danger and trouble. He had read the life of Pomponius Atticus, written by Nepos; and having observed, that he had passed through a time of as much distraction, as ever was in any age or state, from the wars of Marius and Sylla to the beginning of Augustus's reign, without the least blemish on his reputation, and free from any considerable danger, being held in great esteem by all parties, and courted and favoured by them, he set him as a pattern to himself: and observing, that, besides those virtues which are necessary to all men, and at all times, there were two things that chiefly preserved Atticus; the one was his engaging in no faction, and meddling in no public business; the other was his constant favouring and relieving those that were lowest, which was ascribed by such as prevailed to the generosity of his temper, and procured him much kindness from those on whom he had exercised his bounty, when it came to their turn to govern; he resolved to guide himself

by those rules as much as was possible for him to do.

He not only avoided all public employment, but the very talking of news, and was always both favourable and charitable to those who were depressed, and was sure never to provoke any in particular, by censuring or reflecting on their actions; for many that have conversed much with him, have told me they never heard him once speak ill of any person.

He was employed in his practice by all the king's party: he was assigned counsel to the Earl of Strafford, and Archbishop Laud, and afterwards to the accused King himself, when brought to the infamous pageantry of a mock trial, and offered to plead for him with all the courage that so glorious a cause ought to have inspired him with, but was not suffered to appear, because, the King refusing, as he had good reason, to submit to the court, it was pretended none could be admitted to speak for him. He was also counsel for the Duke of Hamilton, the Earl of Holland, and the Lord Capel: his plea for the former of these is published in the memoirs of that duke's life. Afterwards also being counsel for the lord Craven, he pleaded with that force of argument, that the then attorney-general threatened him for appearing against the government: to whom he answered, he was pleading in defence of those laws which they declared they would maintain and preserve, and he was doing his duty to his client, so that he was not to be daunted with threatenings.

Upon all these occasions he had discharged himself with so much learning, fidelity, and courage, that he came to be generally employed for all that party ; nor was he satisfied to appear for their just defence in the way of his profession, but he also relieved them often in their necessities ; which he did in a way that was no less prudent and charitable, considering the dangers of that time : for he did often deposit considerable sums in the hands of a worthy gentleman of the King's party, who knew their necessities well, and was to distribute his charity according to his own discretion, without either letting them know from whence it came, or giving himself any account to whom he had given it.

Cromwell seeing him possessed of so much practice, and he being one of the most eminent men of the law, who was not at all afraid of doing his duty in those critical times, resolved to take him off from it, and raise him to the bench.

Mr. Hale saw well enough the snare laid for him, and though he did not much consider the prejudice it would be to himself, to exchange the easy and safe profits he had by his practice, for a judge's place in the Common Pleas, which he was required to accept of, yet he did deliberate more on the lawfulness of taking a commission from Cromwell ; but, having considered well of this, he came to be of opinion, that it being absolutely necessary to have justice and property kept up at all times, it was no sin to take the commission, if he made no

declaration of his acknowledging the authority, which he never did. He was much urged to accept it by some eminent men of his own profession, who were of the King's party, as Sir Orlando Bridgeman, and Sir Geoffrey Palmer; and was also satisfied concerning the lawfulness of it, by the resolution of some famous divines, in particular Dr. Sheldon, and Dr. Henchman, who were afterwards promoted to the sees of Canterbury and London.

To these were added the importunities of all his friends, who thought that, in a time of so much danger and oppression, it might be no small security to the nation, to have a man of his integrity and abilities on the bench: and the rulers themselves held him in that estimation, that they were glad to have him give a countenance to their courts; and, by promoting one that was known to have different principles from them, affected the reputation of honouring and trusting men of eminent virtues, of what persuasion soever they might be in relation to public matters.

But he had greater scruples concerning the proceeding against felons, and putting offenders to death by that commission, since he thought, the sword of justice belonging only by right to the lawful prince, it seemed not warrantable to proceed to a capital sentence by an authority not thus derived; yet at first he made the distinction between common and ordinary felonies, and offences against the state. For the last, he would never meddle in them; for he thought these might be often legal and warrantable

actions, and that the putting men to death on that account was murder ; but for the ordinary felonies, he at first was of opinion that it was as necessary even in times of usurpation to execute justice in those cases, as in the matters of property. But after the king was murdered, he laid by all his collections of the pleas of the crown ; and that they might not fall into ill hands, he hid them behind the wainscotting of his study, for he said there was no more occasion to use them, till the king should be again restored to his right : and so upon his majesty's restoration he took them out, and went on in his design to perfect that great work.

Yet for some time after he was made a judge, when he went the circuit, he did sit on the crown side, and judged criminals ; but having considered further of it, he came to think that it was at least better not to do it ; and so after the second or third circuit, he refused to sit any more on the crown side, and told plainly the reason ; for in matters of blood he was always to choose the safer side. And indeed he had so carried himself in some trials, that they were not unwilling he should withdraw from meddling further in them, of which I shall give some instances.

Not long after he was made a judge, which was in the year 1653, when he went the circuit, a trial was brought before him at Lincoln, concerning the murder of one of the townsmen, who had been of the King's party, and was killed by a soldier of the garrison there. He was in the fields with a fowling-piece on his

shoulder, which the soldier seeing, he came to him, and said, it was contrary to an order which the Protector had made, That none who had been of the king's party should carry arms, and so he would have forced it from him ; but as the other did not regard the order, so being stronger than the soldier he threw him down, and having beaten him, he left him. The soldier went into the town, and told one of his fellow-soldiers how he had been used, and got him to go with him, and lie in wait for the man, that he might be revenged on him. They both watched him coming to town, and one of them went to him to demand his gun, which he refusing, the soldier struck at him ; and as they were struggling, the other came behind, and ran his sword into his body, of which he presently died. It was in the time of the assizes, so they were both tried. Against the one, there was no evidence of forethought felony, so he was only found guilty of manslaughter, and burnt in the hand ; but the other was found guilty of murder : and though Colonel Whaley, who commanded the garrison, came into the court and urged that the man was killed only for disobeying the Protector's orders, and that the soldier was but doing his duty ; yet the judge regarded both his reasons and threatenings very little, and therefore he not only gave sentence against him, but ordered the execution to be so suddenly done, that it might not be possible to procure a reprieve, which he believed would have been obtained, if there had been time enough granted for it.

Another occasion was given him of showing both his justice and courage, when he was in another circuit: he understood that the Protector had ordered a jury to be returned for a trial in which he was more than ordinarily concerned: upon this information, he examined the sheriff about it, who knew nothing of it, for he said he referred all such things to the under sheriff, and having next asked the under sheriff concerning it, he found the jury had been returned by order from Cromwell: upon which he showed the statute, that all juries ought to be returned by the sheriff, or his lawful officer; and this not being done according to law, he dismissed the jury, and would not try the cause. Upon which the Protector was highly displeased with him, and at his return from the circuit, he told him in anger he was not fit to be a judge; to which all the answer he made was, that it was very true.

Another thing met him in the circuit, upon which he resolved to have proceeded severely: Some persons had rushed into a church, and had disturbed a congregation while they were receiving the sacrament, not without some violence; at this he was highly offended, for he said it was intolerable for men who pretended highly to liberty of conscience, to go and disturb others; especially those who had the encouragement of the law on their side. But these were so supported by some great magistrates and officers, that a stop was put to his proceedings; upon which he declared he would meddle no more with the trials on the crown side.

When Penruddock's trial was brought on, there was a special messenger sent to him requiring him to assist at it. It was in vacation time, and he was at his country-house at Alderley. He plainly refused to go, and said the four terms and two circuits were enough, and the little interval that was between was little enough for their private affairs, and so he excused himself. He thought it was not necessary to speak more clearly, but if he had been urged to it, he would not have been afraid of doing it.

He was at that time chosen a parliament man, for there being then no House of Lords, judges might have been chosen to sit in the House of Commons; and he went to it, on design to obstruct the mad and wicked projects then on foot, by two parties that had very different principles and ends.

On the one hand, some that were perhaps more sincere, yet were really brain sick, designed they knew not what, being resolved to pull down a standing ministry, the law and property of England, and all the ancient rules of this government, and set up in its room an indigested, enthusiastical scheme, which they called the kingdom of Christ, or of his saints; many of them being really in expectation that one day or another Christ would come down and sit among them, and at least they thought to begin the glorious thousand years mentioned in the Revelation.

Others at the same time, taking advantages from the fears and apprehensions that all the

sober men of the nation were in, lest they should fall under the tyranny of a distracted sort of people, who to all their other ill principles added great cruelty, which they had copied from disorderly persons in a former age, intended to improve that opportunity to raise their own fortunes and families. Amidst these, judge Hale steered a middle course; for as he would engage for neither side, so he with a great many more worthy men came to parliaments, more out of a design to hinder mischief, than to do much good; wisely foreseeing, that the inclinations for the royal family were daily growing so much, that in time the disorders then in agitation would ferment to that happy resolution in which they determined in May 1660. And therefore all that could be then done was, to oppose the ill designs of both parties, the enthusiasts as well as the usurpers. Among the other extravagant motions made in this parliament, one was, to destroy all the records in the tower, and to settle the nation on a new foundation; so he took this province to himself, to show the madness of this proposition, the injustice of it, and the mischief that would follow on it; and did it with such clearness, and strength of reason, as not only satisfied all sober persons, for it may be supposed that was soon done, but stopped even the mouths of the frantic people themselves.

Thus he continued administering justice till the Protector died; but then he both refused the mournings that were sent to him and his servants for the funeral, and likewise to accept of the new commission that was offered him by

Richard; and when the rest of the judges urged it upon him, and employed others to press him to accept of it, he rejected all their importunities, and said he could act no longer under the existing authority.

CHAPTER III.

HIS RETIREMENT ON THE DEATH OF CROMWELL
HIS IMPARTIALITY IN THE ADMINISTRATION OF
JUSTICE HIS LIBERALITY TOWARDS THE NON-
CONFORMISTS.

HE lived a private man till the parliament met that called home the King, to which he was returned knight of the shire from the county of Gloucester. It appeared at that time how much he was beloved and esteemed in his neighbourhood; for, though another who stood in competition with him had spent near a thousand pounds to procure voices, a great sum to be employed in that way in those days, and he had been at no cost, and was so far from soliciting it, that he had stood out long against those who pressed him to appear, and he did not promise to appear till three days before the election, yet he was preferred. He was brought thither almost by violence, by the lord, after earl of Berkley, who bore all the charge of the enter-

tainments on the day of his election, which was considerable, and had engaged all his friends and interest for him : and whereas by the writ, the knight of a shire must be *miles gladio cinctus*, (a soldier girded with a sword,) and he had no sword, that noble lord girt him with his own sword during the election ; but he was soon weary of it, for the embroidery of the belt did not suit well with the plainness of his clothes : and indeed the election did not hold long, for as soon as ever he came into the field, he was chosen by much the greater number, though the poll continued for three or four days.

In that parliament he bore his share, in the happy period then put to the confusions that threatened the utter ruin of the nation, which, contrary to the expectations of the most sanguine, settled in so serene and quiet a manner, that those who had formerly built so much on their success, calling it an answer from heaven to their solemn appeals to the providence of God, were now not a little confounded, to see all this turned against themselves, in an instance much more extraordinary than any of those were upon which they had built so much. His great prudence and excellent temper led him to think, that the sooner an act of indemnity were passed, and the fuller it were of graces and favours, it would sooner settle the nation, and quiet the minds of the people ; and therefore he applied himself with a particular care to the framing and carrying it on : in which it was visible he had no concern of his own, but merely his love of the public that set him on to it.

Soon after this, when the courts in Westminster Hall came to be settled, he was made lord chief baron, in November; and when the Earl of Clarendon, then lord chancellor, delivered him his commission, in the speech he made according to the custom on such occasions, he expressed his esteem of him in a very singular manner, telling him among other things, that if the King could have found out an honester and fitter man for that employment, he would not have advanced him to it; and that he had therefore preferred him, because he knew none that deserved it so well. It is ordinary for persons so promoted to be knighted, but he desired to avoid having that honour done him, and therefore for a considerable time declined all opportunities of waiting on the King; which the lord chancellor observing, sent for him upon business one day when the King was at his house, and told his majesty there was his modest chief baron; upon which he was unexpectedly knighted.

He continued eleven years in that place, managing the court, and all proceedings in it, with singular justice. It was observed by the whole nation, how much he raised the reputation and practice of it: and those who held places and offices in it can all declare, not only the impartiality of his justice, for that is but a common virtue, but his generosity, his vast diligence, and his great exactness in trials. This gave occasion to the only complaint that ever was made of him, that he did not despatch matters quick enough; but the great care he used to

put suits to a final end, as it made him slower in deciding them, so it had this good effect, that causes tried before him were seldom if ever tried again.

Nor did his administration of justice lie only in that court: he was one of the principal judges that sat in Clifford's Inn about settling the difference between landlord and tenant after the dreadful fire of London; he being the first that offered his service to the city for accommodating all the differences that might have arisen about the rebuilding it, in which he behaved himself to the satisfaction of all persons concerned; so that the sudden and quiet building of the city, which is justly to be reckoned one of the wonders of the age, is in no small measure due to the great care which he and Sir Orlando Bridgeman, then lord chief justice of the Common Pleas, afterwards lord keeper of the great seal of England, used, and to the judgment they showed in that affair: since without the rules then laid down, there might have otherwise followed such an endless train of vexatious suits, as might have been little less chargeable than the fire itself had been. But without detracting from the labours of the other judges, it must be acknowledged that he was the most instrumental in that great work; for he first by way of scheme contrived the rules upon which he and the rest proceeded afterwards; in which his readiness at arithmetic, and his skill in architecture, were of great use to him.

But it will not seem strange that a judge

behaved himself as he did, who at the entry into his employment set such excellent rules to himself, which will appear in the following paper, copied from the original under his own hand.

THINGS NECESSARY TO BE CONTINUALLY HAD
IN REMEMBRANCE.

- I. That in the administration of justice, I am entrusted for God, the king and country; and therefore,
- II. That it be done: 1. Uprightly; 2. Deliberately; 3. Resolutely.
- III. That I rest not upon my own understanding or strength, but implore and rest upon the direction and strength of God.
- IV. That in the execution of justice, I carefully lay aside my own passions, and not give way to them, however provoked.
- V. That I be wholly intent upon the business I am about, remitting all other cares and thoughts as unseasonable and interruptions.
- VI. That I suffer not myself to be prepossessed with any judgment at all, till the whole business and both parties be heard.
- VII. That I never engage myself in the beginning of any cause, but reserve myself unprejudiced till the whole be heard.
- VIII. That in business capital, though my nature prompt me to pity, yet to consider that there is always a pity due to the country.
- IX. That I be not too rigid in matters purely conscientious, where all the harm is diversity of judgment.
- X. That I be not biassed with compassion to the poor, or favour to the rich, in point of justice.
- XI. That popular or court applause, or distaste, have no influence into any thing I do in point of distribution of justice.
- XII. Not to be solicitous what men will say or think, so long as I keep myself exactly according to the rule of justice.
- XIII. If in criminals it be a measuring cast, to incline to mercy and acquittal.
- XIV. In criminals that consist merely in words, when no more harm ensues, moderation is no injustice.
- XV. In criminals of blood, if the fact be evident, severity is justice.
- XVI. To abhor all private solicitations, of what kind soever, and by whomsoever, in matters depending.
- XVII. To charge my servants: 1. Not to interpose in any business whatsoever; 2. Not to take more than their known fees; 3. Not to give any undue precedence to causes; 4. Not to recommend counsel.
- XVIII. To be short and sparing at meals, that I may be the fitter for business.

He would never receive private addresses or recommendations from the greatest persons in

any matter in which justice was concerned. One of the first peers of England went once to his chamber, and told him, that having a suit in law to be tried before him, he was then to acquaint him with it, that he might the better understand it when it should come to be heard in court. Upon which the lord chief justice interrupted him, and said he did not deal fairly to come to his chamber about such affairs, for he never received any information of causes but in open court, where both parties were to be heard alike ; so he would not suffer him to go on : whereupon his Grace (for he was a duke) went away not a little dissatisfied, and complained of it to the King as a rudeness that was not to be endured. But his majesty bade him content himself that he was no worse used, and said, he verily believed he would have used himself no better, if he had gone to solicit him in any of his own causes.

Another passage fell out in one of his circuits, which was somewhat censured as too strict, but it flowed from his exactness as to the rules he had set himself. A gentleman had sent him a buck for his table, that had a trial at the assizes ; so when he heard his name, he asked if he was not the same person that had sent him venison, and finding he was the same, he told him, he would not suffer the trial to go on till he had paid him for his buck ; to which the gentleman answered, that he never sold his venison, and that he had done nothing to him which he did not do to every judge that had gone that circuit, which was confirmed by sev-

eral gentlemen then present : but all would not do, for the lord chief justice had learned from Solomon, that " a gift perverteth the ways of judgment," and therefore he would not suffer the trial to go on, till he had paid for the present ; upon which the gentleman withdrew the record. And at Salisbury, the dean and chapter having according to the custom presented him with six sugar-loaves in his circuit, he made his servants pay for the sugar before he would try their cause.

It was not so easy for him to throw off the importunities of the poor, for whom his compassion wrought more powerfully than his regard to wealth and greatness ; yet, when justice was concerned, even that did not turn him out of the way. There was one that had been put out of a place for some ill behaviour, who urged lord chief justice Hale to set his hand to a certificate to restore him to it, or provide him with another ; but he told him plainly his fault was such that he could not do it. The other pressed him vehemently, and fell down on his knees, and begged it of him with many tears ; but finding that could not prevail, he said he should be utterly ruined if he did it not, and he should curse him for it every day. But that having no effect, then he fell out into all the reproachful words that passion and despair could inspire him with ; to which all the answer the lord chief justice made was, that he could very well bear all his reproaches, but he could not for all that set his hand to his certificate. He saw he was

poor, so he gave him a large charity, and sent him away.

But now he was to go on after his pattern Pomponius Atticus, still to favour and relieve them that were lowest; so besides great charities to the nonconformists, who were then, as he thought, too hardly used, he took great care to cover them all he could from the severities some designed against them, and discouraged those who were inclined to stretch the laws too much against them. He lamented the differences that were raised in the church very much; and according to the impartiality of his justice, he blamed some things on both sides, which I shall set down with the same freedom that he spake them. He thought many of the nonconformists had merited highly in the business of the King's restoration, and at least deserved that the terms of conformity should not have been made stricter than they were before the war. There was not then that dreadful prospect of popery that has appeared since. But that which afflicted him most was, that he saw the heats and contentions, which followed upon those different parties and interests, did take people off from the indispensable things of religion, and slackened the zeal of otherwise good men for the substance of it, so much being spent about external and indifferent things. It also gave advantage to atheists to treat the most sacred points of our holy faith as ridiculous, when they saw the professors of it contend so fiercely, and with such bitterness, about lesser matters. He was much offended at all those

books that were written to oppose the contrary sect to the scorn and contempt of the age in a wanton and petulant style. He thought such writers wounded the Christian religion, through the sides of those who differed from them; while a sort of lewd people, who having assumed to themselves the title of the wits, though but a very few of them had a right to it, took up from both hands what they had said to make one another show ridiculous, and from thence persuaded the world to laugh at both, and at all religion for their sakes.

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He scarce ever meddled in state intrigues, yet, upon a proposition that was set on foot by the lord keeper Bridgeman, for a comprehension of the more moderate dissenters, and a limited indulgence towards such as could not be brought within the comprehension, he dispensed with his maxim of avoiding to engage in matters of state. There were several meetings upon that occasion: the divine of the church of England that appeared most considerably for it was Dr. Wilkins, afterwards promoted to the bishoprick of Chester, a man of as great a mind, as true a judgment, as eminent virtues, and of as good a soul, as any I ever knew. He being determined as well by his excellent temper, as by his foresight and prudence, by which he early perceived the great prejudices that religion received, and the vast dangers the reformation was likely to fall under by those divisions, set about that project with the magnanimity that was indeed peculiar to himself; for though he was much

censured by many of his own side, and seconded by very few, yet he pushed it as far as he could. After several conferences with two of the most eminent of the Presbyterian divines, heads were agreed on, some abatements were to be made, and explanations were to be accepted of. The particulars of that project being thus concerted, they were brought to the lord chief justice, who put them in form of a bill, to be presented to the next session of parliament.

But two parties appeared vigorously against this design; the one was of some zealous clergymen, who thought it below the dignity of the church to alter laws, and change settlements for the sake of some whom they esteemed schismatics; they also believed it was better to keep them out of the church than bring them into it, since a faction upon that would arise in the church, which they thought might be more dangerous than the schism itself was. Besides, they said, if some things were now to be changed in compliance with the humour of a party, as soon as that was done, another party might demand other concessions, and there might be as good reasons for these as for those; many such concessions might also shake those of our own communion, and tempt them to forsake us and go over to the church of Rome, pretending that we changed so often, that they were thereby inclined to be of a church that was constant and true to herself. These were the reasons brought, and chiefly insisted on, against all comprehension; and they wrought upon the greater part of the House of Commons, so that

they passed a vote against the receiving of any bill for that effect.

There were others that opposed it upon very different ends ; they designed to shelter the papists from the execution of the law, and saw clearly that nothing could bring in popery so well as toleration. But to tolerate popery barefaced would have startled the nation too much ; so it was necessary to hinder all the propositions for union, since the keeping up the differences was the best colour they could find for getting the toleration to pass only as a slackening the laws against dissenters, whose numbers and wealth made it adviseable to have some regard to them ; and under this pretence popery might have crept in more covered, and less regarded, So these counsels being more acceptable to some concealed papists, then in great power, as has since appeared but too evidently, the whole project for comprehension was let fall, and those who had set it on foot came to be looked on with an ill eye, as secret favourers of the dissenters, underminers of the church, and every thing else that jealousy and distaste could cast upon them.

But upon this occasion the lord chief justice and Dr. Wilkins came to contract a firm and familiar friendship ; and the lord chief justice having much business, and little time to spare, did, to enjoy the other the more, what he had scarce ever done before — he went sometimes to dine with him. And though he lived in great friendship with some other eminent clergymen, as Dr. Ward, bishop of Salisbury ; Dr. Barlow,

bishop of Lincoln ; Dr. Barrow, late master of Trinity College ; Dr. Tillotson, dean of Canterbury ; and Dr. Stillingsfleet, dean of St. Paul's, (men so well known and so well esteemed, that it was no wonder that judge Hale valued their conversation highly, nor that they are reckoned among his friends,) yet there was an intimacy and freedom in his converse with bishop Wilkins that was singular to him alone. He had, during the late wars, lived a long and entire friendship with the apostolical primate of Ireland, bishop Usher : their curious searches into antiquity, and the sympathy of both their tempers, led them to a great agreement almost in every thing. He held also pleasing conversations with Rev. Richard Baxter, who was his neighbour at Acton, on whom he looked as a person of great devotion and piety, and of a very subtile and quick apprehension : their conversations lay most in metaphysical and abstracted ideas and schemes.

CHAPTER IV.

HIS WRITINGS ON THEORETICAL AND PRACTICAL
RELIGION.... HIS APPOINTMENT AS LORD CHIEF
JUSTICE OF ENGLAND.... HIS REFLECTIONS ON
HIS OFFICE.... HIS RESIGNATION.

HE looked with great sorrow on the impiety and atheism of the age, and so he set himself to oppose it, not only by the shining example of his own life, but by engaging in a cause that indeed could hardly fall into better hands: and as he could not find a subject more worthy of himself, so there were few in the age that understood it so well, or could manage it more skilfully. The occasion that first led him to write about it was this:—He was a strict observer of the Lord's-day, in which, besides his constancy in the public worship of God, he used to call all his family together, and repeat to them the heads of the sermons, with some additions of his own, which he fitted for their capacities and circumstances; and that being done, he had a custom of shutting himself up for two or three hours, which he either spent in his secret devotions, or in such profitable meditations as did then occur to his thoughts. He wrote them with the same simplicity that he formed them in his mind, without any art, or so much as a

thought to let them be published: he never corrected them, but laid them by when he had finished them, having intended only to fix and preserve his own reflections in them: so that he used no sort of care to polish them, or make the first draft more perfect than when they came from his pen. These fell into the hands of a worthy person, and he judging, as well he might, that the communicating them to the world might be a public service, printed two volumes of them in octavo, a little before the author's death, containing his

CONTEMPLATIONS.

1. Of our latter End.
2. Of Wisdom, and the Fear of God.
3. Of the knowledge of Christ crucified.
4. The Victory of Faith over the World.
5. Of Humility.
6. Jacob's Vow.
7. Of Contention.
8. Of Afflictions.
9. A good method to entertain unstable and troublesome Times.
10. Changes and Troubles, a Poem.
11. Of the Redemption of Time.
12. The great Audit.
13. Directions touching keeping the Lord's-day, in a Letter to his Children.
14. Poems written upon Christmas-day.

[In the Second Volume.]

1. An Enquiry touching Happiness.
2. Of the chief End of Man.
3. Upon 12 Eccles. 1. Remember thy Creator.
4. Upon the 51st Psalm, 5:10. Create a clean heart in me; with a poem.
5. The Folly and Mischief of Sin.
6. Of Self-Denial.
7. Motives to Watchfulness, in reference to the Good and Evil Angels.
8. Of Moderation of the Affections.
9. Of worldly Hope and Expectation.
10. Upon 13 Heb. 14. We have here no continuing city
11. Of Contentedness and Patience.
12. Of Moderation of Anger.
13. A Preparative against Afflictions.

14. Of Submission, Prayer, and Thanksgiving.
15. Of Prayer and Thanksgiving, on Psalm 116 : 12.
16. Meditations on the Lord's Prayer, with a Paraphrase upon it.

In them there appears a generous and true spirit of religion, mixed with most serious and fervent devotion; and perhaps with the more advantage, that the style wants some correction, which shows they were the genuine productions of an excellent mind, entertaining itself in secret with such contemplations. The style is clear and masculine, in a due temper between flatness and affectation, in which he expresses his thoughts both easily and decently. In writing these discourses, having run over most of the subjects that his own circumstances led him chiefly to consider, he began to be in some pain to choose new arguments, and therefore resolved to fix on a theme that should hold him longer.

He was soon determined in his choice by the immoral and irreligious principles and practices that had so long vexed his righteous soul; and therefore began a great design against atheism, the first part of which is only printed, of the Origination of Mankind, designed to prove the creation of the world, and the truth of the Mosaical history.

The second part was of the Nature of the Soul, and of a Future State.

The third part was concerning the Attributes of God, both from the abstracted ideas of him, and the light of nature; the evidence of providence, the notions of morality, and the voice of conscience.

And the fourth part was concerning the Truth and Authority of the Scriptures, with Answers

to the Objections against them. On writing these he spent seven years. He wrote them with so much consideration, that one who perused the original under his own hand, which was the first draft of it, told me, he did not remember any considerable alteration, perhaps not of twenty words in the whole work.

The way of his writing them, only on the evenings of the Lord's-day, when he was in town, and not much oftener when he was in the country, made that they are not so contracted, as it is very likely he would have written them if he had been more at leisure to have brought his thoughts into a narrower compass and fewer words.

But making some allowance for the largeness of the style, that volume that is printed is generally acknowledged to be one of the most perfect pieces both of learning and reasoning that has been written on that subject; and he who read a great part of the other volumes, told me they were all of a piece with the first.

When he had finished this work, he sent it by an unknown hand to bishop Wilkins, to desire his judgment of it; but he that brought it would give no other account of the author, but that he was not a clergyman. The bishop, and his worthy friend Dr. Tillotson, read a great deal of it with much pleasure, but could not imagine who could be the author, and how a man that was master of so much reason, and so great a variety of knowledge, should be so unknown to them, that they could not find him out by those characters which are so little common. At last

Dr. Tillotson guessed it must be the lord chief justice, to which the other presently agreed, wondering he had been so long in finding it out. So they went immediately to him, and the bishop thanking him for the entertainment he had received from his works, he blushed extremely, not without some displeasure, apprehending that the person he had trusted had discovered him. But the bishop soon cleared that, and told him he had discovered himself, for the learning of that book was so various, that none but he could be the author of it. And that bishop having a freedom in delivering his opinions of things and persons, which perhaps few ever managed both with so much plainness and prudence, told him, there was nothing could be better said on these arguments, if he could bring it into a less compass; but if he had not leisure for that, he thought it much better to have it come out, though a little too large, than that the world should be deprived of the good which it must needs do. But our judge had never the opportunities of revising it, so a little before his death he sent the first part of it to the press.

In the beginning of it he gives an essay of his excellent way of methodizing things, in which he was so great a master, that whatever he undertook, he would presently cast into so perfect a scheme, that he could never afterwards correct it. He runs out copiously upon the argument of the impossibility of an eternal succession of time, to show that time and eternity are inconsistent one with another; and that therefore

all duration that was past, and defined by time, could not be from eternity; and he shows the difference between successive eternity already past, and one to come; so that, though the latter is possible, the former is not so; for all the parts of the former have actually been, and therefore, being defined by time, cannot be eternal; whereas the other are still future to all eternity: so that this reasoning cannot be turned to prove the possibility of eternal successions that have been, as well as eternal successions that shall be. This he follows with a strength I never met with in any that managed it before him.

He brings next all those moral arguments to prove that the world had a beginning, agreeing to the account Moses gives of it, as that no history rises higher than near the time of the Deluge, and that the first foundation of kingdoms, the invention of arts, the beginnings of all religions, the gradual plantation of the world and increase of mankind, and the consent of nations, do agree with it. In managing these, as he shows profound skill both in historical and philosophical learning, so he gives a noble discovery of his great candour and probity, that he would not impose on the reader with a false show of reasoning by arguments that he knew had flaws in them; and therefore, upon every one of these he adds such allays, as in a great measure lessened and took off their force with as much exactness of judgment and strictness of censure, as if he had been set to plead for the other side; and, indeed, sums up the whole evidence for

religion as impartially as ever he did in a trial for life or death to the jury ; which how equally and judiciously he did, the whole nation well knows.

After that, he examines the ancient opinions of the philosophers, and enlarges with a great variety of curious reflections in answering that only argument that has any appearance of strength for the casual production of man, from the origination of insects out of putrified matter, as is commonly supposed ; and he concluded the book, showing how rational and philosophical the account which Moses gives of it is. There is in it all, a sagacity and quickness of thought, mixed with great and curious learning, that I confess I never met together in any other book on that subject. Among other conjectures, one he gives concerning the Deluge is, that he did not think the face of the earth and the waters were altogether the same before the universal Deluge, and after ; but possibly the face of the earth was more even than now it is ; the seas possibly more dilated and extended, and not so deep as now. And a little after, possibly the seas have undermined much of the appearing continent of earth. This I the rather take notice of, because it hath been, since his death, made out in a most ingenious and most elegantly written book, by Mr. Burnet, of Christ's College in Cambridge, who has given such an essay towards the proving the possibility of an universal deluge, and from thence has collected, with great sagacity, what Paradise was before

it, as has not been offered by any philosopher before him.

While the judge was thus employing his time, the lord chief justice Keyling dying, he was, on the 18th of May, 1671, promoted to be lord chief justice of England. He had made the pleas of the crown one of his chief studies, and by much search and long observation had composed that great work concerning them formerly mentioned. He that holds the high office of justiciary in that court being the chief trustee and asserter of the liberties of his country, all people applauded this choice, and thought their liberties could not be better deposited than in the hands of one, that, as he understood them well, so he had all the justice and courage that so sacred a trust inspired. One thing was much observed and commended in him, that when there was a great inequality in the ability and learning of the counsellors that were to plead one against another, he thought it became him, as the judge, to supply that; so he would enforce what the weaker counsel managed but indifferently, and not suffer the more learned to carry the business by the advantage they had over the others in their quickness and skill in law, and readiness in pleading, till all things were cleared in which the merits and strength of the ill-defended cause lay. He was not satisfied barely to give his judgment in causes, but did especially in all intricate ones, give such an account of the reasons that prevailed with him, that the counsel did not only acquiesce in his authority, but

were so convinced by his reasons, that I have heard many profess that he brought them often to change their opinions ; so that his giving of judgment was really a learned lecture upon that point of law ; and which was yet more, the parties themselves, though interest does too commonly corrupt the judgment, were generally satisfied with the justice of his decisions, even when they were made against them. His impartial justice and great diligence drew the chief practice after him, into whatsoever court he came : since, though the courts of Common Pleas, the Exchequer, and the King's Bench, are appointed for the trial of causes of different natures, yet it is easy to bring most causes into any of them, as the counsel or attorneys please ; so, as he had drawn the business much after him, both into the Common Pleas and the Exchequer, it now followed him into the King's Bench, and many causes that were depending in the Exchequer and not determined, were let fall there, and brought again before him in the court to which he was now removed. And here did he spend the rest of his public life and employment. But about four years and a half after this advancement, he, who had hitherto enjoyed a firm and vigorous health, to which his great temperance and the equality of his mind did not a little conduce, was on a sudden brought very low by an inflammation in the diaphragm, which in two days' time broke the constitution of his health to such a degree that he never recovered it. He became so asthmatical, that with great difficulty he could fetch his breath ;

that determined in a dropsy, of which he afterwards died. He understood physic so well, that, considering his age, he concluded his distemper must carry him off in a little time ; and therefore he resolved to have some of the last months of his life reserved to himself, that, being freed of all worldly cares, he might be preparing for his change. He was also so much disabled in his body, that he could hardly, though supported by his servants, walk through Westminster Hall, or endure the toil of business. He had been a long time wearied with the distractions that his employment had brought on him, and his profession was become ungrateful to him ; he loved to apply himself wholly to better purposes, as will appear by a paper that he wrote on this subject, which I shall here insert :

“ First, If I consider the business of my profession, whether as an advocate or as a judge, it is true I do acknowledge, by the institution of Almighty God, and the dispensation of his providence, I am bound to industry, and fidelity in it ; and as it is an act of obedience unto his will, it carries with it something of religious duty, and I may and do take comfort in it, and expect a reward of my obedience to him, and the good that I do to mankind therein, from the bounty and beneficence and promise of Almighty God. And it is true also, that without such employments, civil societies cannot be supported, and great good redounds to mankind from them ; and in these respects, the conscience of my own industry, fidelity, and integrity in them, is a great comfort and satisfaction to me. But yet

this I must say concerning these employments, considered simply in themselves, that they are very full of cares, anxieties, and perturbations.

“Secondly, That though they are beneficial to others, yet they are of the least benefit to him that is employed in them.

“Thirdly, That they do necessarily involve the party whose office it is, in great dangers, difficulties, and calumnies.

“Fourthly, That they only serve for the meridian of this life, which is short and uncertain.

“Fifthly, That though it be my duty faithfully to serve in them while I am called to them, and till I am duly called from them, yet they are great consumers of that little time we have here, which, as it seems to me, might be better spent in a pious, contemplative life, and a due provision for eternity. I do not know a better temporal employment than Martha had, in testifying her love and duty to our Saviour, by making provision for him ; yet our Lord tells her, That though she was troubled about many things, there was only one thing necessary, and Mary had chosen the better part.”

By this the reader will see that he continued in his station upon no other consideration, but that, being set in it by the providence of God, he judged he could not abandon that post which was assigned him, without preferring his own private inclination to the choice God had made for him ; but now, that same Providence having by this great distemper disengaged him from the obligation of holding a place which he was

no longer able to discharge, he resolved to resign it. This was no sooner surmised abroad, than it drew upon him the importunities of all his friends, and the clamour of the whole town, to divert him from it; but all was to no purpose: there was but one argument that could move him, which was, that he was obliged to continue in the employment God had put him in for the good of the public. But to this he had such an answer, that even those who were most concerned in his withdrawing, could not but see that the reasons inducing him to it, were but too strong; so he made applications to his majesty, in January 1675-6, for his writ of ease, which the king was very unwilling to grant him, and offered to let him hold his place still, he doing what business he could in his chamber; but he said he could not with a good conscience continue in it, since he was no longer able to discharge the duty belonging to it.

But yet such was the general satisfaction which all the kingdom received by his excellent administration of justice, that the king, though he could not well deny his request, yet he deferred the granting of it as long as was possible. Nor could the lord chancellor be prevailed with to move the king to hasten his discharge, though the chief justice often pressed him to it.

At last, having wearied himself and all his friends with his importunate desires, and growing sensibly weaker in body, he did upon the 21st day of February, 28 Car. II. anno Domini 1675-6, go before a master of the chancery with a little parchment deed, drawn by himself,

and written all with his own hand, and there sealed and delivered it, and acknowledged it to be enrolled; and afterwards he brought the original deed to the lord chancellor, and did formally surrender his office by an instrument written in Latin.

He made this instrument, as he told the lord chancellor, for two ends: the one was to show the world his own free concurrence to his removal; another was to obviate an objection heretofore made, that a chief justice being placed by writ, was not removeable at pleasure, as judges by patent were: which opinion, as he said, was once held by his predecessor the lord chief justice Keyling, and though he himself were always of another opinion, yet he thought it reasonable to prevent such a scruple.

He had the day before surrendered to the king in person, who parted from him with great grace, wishing him most heartily the return of his health, and assuring him that he would still look upon him as one of his judges, and have recourse to his advice when his health would permit; and in the mean time would continue his pension during his life.

The good man thought this bounty too great, and an ill precedent for the king, and therefore wrote a letter to the lord treasurer, earnestly desiring that his pension might be only during pleasure; but the king would grant it for life, and make it payable quarterly.

And yet for a whole month together he would not suffer his servant to sue out his patent for his pension, and when the first payment was

received, he ordered a great part of it to charitable uses, and said he intended most of it should be so employed as long as it was paid him

At last, he happened to die upon the quarter-day, which was Christmas-day; and though this might have given some occasion to a dispute whether the pension for that quarter were recoverable, yet the king was pleased to decide that matter against himself, and ordered the pension to be paid to his executors.

As soon as he was discharged from his great place, he returned home with as much cheerfulness as his want of health could admit of, being now eased of a burthen he had been of late groaning under, and so made more capable of enjoying that which he had much wished for, according to his elegant translation of, or rather paraphrase upon, those excellent lines in Seneca's *Thyestes*, Act II.

Let him that will, ascend the tottering seat
Of courtly grandeur, and become as great
As are his mounting wishes : As for me,
Let sweet repose and rest my portion be ;
Give me some mean, obscure recess, a sphere
Out of the road of business, or the fear
Of falling lower ; where I sweetly may
Myself and dear retirement still enjoy ;
Let not my life or name be known unto
The grandees of the time, tossed to and fro
By censures or applause ; but let my age
Slide gently by, not overthrow the stage
Of public action, unheard, unseen,
And unconcerned, as if I ne'er had been.
And thus, while I shall pass my silent days
In shady privacy, free from the noise
And bustles of the mad world, then shall I
A good old innocent plebeian die.
Death is a mere surprise, a very snare
To him, that makes it his life's greatest care
To be a public pageant, known to all,
But unacquainted with himself, doth fall.

CHAPTER V.

JUDGE HALE'S PRIVATE LIFE.... HIS LAST SICKNESS.... HIS DEATH, AND PROSPECT OF HEAVENLY GLORY.

HAVING now attained to that privacy which he had no less seriously than piously wished for, he called all his servants that had belonged to his office together, and told them he had now laid down his place, and so their employments were determined. Upon that, he advised them to see for themselves, and gave to some of them very considerable presents, and to every one of them a token, and so dismissed all those that were not his domestics. He was discharged the 15th of February, 1675-6, and lived till the Christmas following; but all the while was in so ill a state of health, that there were no hopes of his recovery. He continued still to retire often, both for his devotions and studies; and as long as he could go, went constantly to his closet; and when his infirmities increased on him so that he was not able to go thither himself, he made his servants carry him thither in a chair. At last, as the winter came on, he saw with great joy his deliverance approaching; for, besides his being weary of the world, and his longings for the blessedness of another state,

his pains increased so on him, that no patience inferior to his could have borne them without a great uneasiness of mind ; yet he expressed to the last such submission to the will of God, and so equal a temper under his pains, that it was visible then what mighty effects his philosophy and Christianity had on him, in supporting him under such a heavy load.

He could not lie down in bed above a year before his death, by reason of the asthma ; but sat, rather than lay in it.

He was attended on in his sickness by a pious and worthy divine, Mr. Evan Griffith, minister of the parish ; and it was observed that, in all the extremities of his pain, whenever he prayed by him, he forbore all complaints or groans, but with his hands and eyes lifted up was fixed in his devotions. Not long before his death, the minister told him there was to be a sacrament next Sunday at church, but he believed he could not come and partake with the rest ; therefore he would give it to him in his own house. But he answered, " No : his heavenly Father had prepared a feast for him : and he would go to his Father's house to partake of it." So he was carried thither in his chair, where he received the sacrament on his knees with great devotion, which it may be supposed was the greater, because he apprehended it was to be his last, and so took it as his provision for his journey. He had some secret, unaccountable presages of his death, for he said, that if he did not die on such a day, which fell to be the 25th of November, he believed he should live a

month longer ; and he died that very day month. He continued to enjoy the free use of his reason and sense to the last moment, which he had often and earnestly prayed for during his sickness. And when his voice was so sunk that he could not be heard, they perceived by the almost constant lifting up of his eyes and hands, that he was still aspiring towards that blessed state, of which he was now speedily to be possessed.

He had for many years a particular devotion for Christmas day, and after he had received the sacrament, and been in the performance of the public worship of that day, he commonly wrote a copy of verses on the honour of his Saviour, as a fit expression of the joy he felt in his soul at the return of that glorious anniversary. There are seventeen of those copies printed, which he wrote on seventeen several Christmas-days ; by which the world has a taste of his poetical genius, in which, if he had thought it worth his time to have excelled, he might have been eminent as well as in other things ; but he wrote them rather to entertain himself, than to merit the laurel.

I shall here add one which has not been yet printed, and it is not unlikely it was the last he wrote. It is a paraphrase on Simeon's Song ; I take it from his blotted copy not at all finished, so the reader is to make allowance for any imperfection he may find in it.

“ Blessed Creator, who before the birth
Of time, or ere the pillars of the earth
Were fixed or formed, didst lay that great design
Of man's redemption, and didst then define
In thine eternal counsels all the scene
Of that stupendous business, and when

It should appear, and though the very day
 Of its Epiphany concealed lay
 Within thy mind, yet thou wert pleased to show
 Some glimpses of it unto men below,
 In visions, types, and prophecies, as we
 Things at a distance in perspective see :
 But thou wert pleased to let thy servant know
 That that blest hour, that seemed to move so slow
 Through former ages, should at last attain
 Its time, ere my few sands that yet remain
 Are spent ; and that these aged eyes
 Should see the day when Jacob's star should rise.
 And now thou hast fulfilled it, blessed Lord,
 Dismiss me now, according to thy word ;
 And let my aged body now return
 To rest, and dust, and drop into an urn ;
 For I have lived enough, mine eyes have seen
 Thy much-desired salvation, that hath been
 So long, so dearly wished ; the joy, the hope
 Of all the ancient patriarchs, the scope
 Of all the prophecies and mysteries,
 Of all the types unveiled, the histories
 Of Jewish church unriddled, and the bright
 And orient sun arisen to give light
 To Gentiles, and the joy of Israel,
 The world's Redeemer, blest Immanuel.
 Let this sight close mine eyes, 'tis loss to see,
 After this vision, any sight but Thee."

Thus he used to sing on the former Christmas days, but now he was to be admitted to bear his part in the new songs above ; so that day which he had spent in so much spiritual joy, proved to be indeed the day of his jubilee and deliverance ; for between two and three in the afternoon, he breathed out his righteous and pious soul. His end was peace ; he had no strugglings, nor seemed to be in any pangs in his last moments. He was buried on the 4th of January ; Mr. Griffith preaching the funeral sermon, from the 57th of Isaiah, 1st verse, " The righteous perisheth, and no man layeth it to heart ; and merciful men are taken away, none considering that the righteous is taken away from the evil to come." Which how fitly it was applicable

upon this occasion, all that consider the course of his life will easily conclude. He was interred in the church-yard of Alderley, among his ancestors. He did not much approve of burying in churches, and used to say, the churches were for the living, and the church-yards for the dead. His monument was, like himself, decent and plain; the tombstone was black marble, and the sides were black and white marble, upon which he himself had ordered this bare and humble inscription to be made;

HERE LIES INTERRED

THE BODY OF

MATTHEW HALE, A SOLDIER;

OF ROBERT HALE, HIS ONLY CHILD,

AND OF JOANNA, HIS WIFE.

THE FIRST WAS BORN IN THIS PARISH OF
ALDERLEY, ON THE FIRST DAY OF NOVEM-
BER, IN THE YEAR OF OUR LORD 1609.

HE DIED IN THE SAME PLACE, ON

THE 25TH DAY OF DECEMBER,

IN THE YEAR OF OUR LORD

1676, AGED 67.

CHAPTER VI.

JUDGE HALE'S CHARACTER HIS EARLY RISING
HIS OPINIONS OF CIVIL LAW, AND OF PLEAD-
INGS HIS ELOQUENCE ... HIS IDEA OF CREATION.

HAVING thus given an account of the most remarkable things of his life, I am now to present the reader with such a character of him as the laying his several virtues together will amount to; in which I know how difficult a task I undertake: for to write defectively of him were to injure him, and lessen the memory of one to whom I intend to do all the justice that is in my power. On the other hand, there is so much here to be commended, and proposed for the imitation of others, that I am afraid some may imagine I am rather making a picture of him from an abstracted idea of great virtues and perfections, than setting him out as he truly was: but there is great encouragement in this, that I write concerning a man so fresh in all people's remembrance, that is so lately dead, and was so much and so well known, that I shall have many vouchers, who will be ready to justify me in all that I am to relate, and to add a great deal to what I can say.

It has appeared in the account of his various learning, how great his capacities were, and how much they were improved by constant

study: he rose always early in the morning; he loved to walk much abroad, not only for his health, but he thought it opened his mind, and enlarged his thoughts, to have the creation of God before his eyes. When he set himself to any study, he used to cast his design in a scheme, which he did with a great exactness of method. He took nothing on trust, but pursued his inquiries as far as they could go; and as he was humble enough to confess his ignorance, and submit to mysteries which he could not comprehend, so he was not easily imposed on by any shows of reason, or the bugbears of vulgar opinions: he brought all his knowledge as much to scientific principles as he possibly could, which made him neglect the study of tongues, for the bent of his mind lay another way. Discoursing once of this to some, they said, they looked on the common law as a study that could not be brought into a scheme, nor formed into a rational science, by reason of the indigestedness of it, and the multiplicity of the cases in it, which rendered it very hard to be understood, or reduced into a method; but he said, he was not of their mind, and so quickly after, he drew with his own hand a scheme of the whole order and parts of it, in a large sheet of paper, to the great satisfaction of those to whom he sent it. Upon this hint, some pressed him to compile a body of the English law: it could hardly ever be done by a man who knew it better, and would with more judgment and industry have put it into method; but he said, as it was a great and noble design, which would be of vast

advantage to the nation ; so it was too much for a private man to undertake : It was not to be entered upon but by the command of a prince, and with the communicated endeavours of some of the most eminent of the profession.

He had great vivacity in his fancy, as may appear by his inclination to poetry, and the lively illustrations of many tender strains in his contemplations ; but he looked on eloquence and wit as things to be used very chastely in serious matters, which should come under a severer inquiry : therefore he was, both when at the bar and on the bench, a great enemy to all eloquence or rhetoric in pleading : he said, if the judge or jury had a right understanding, it signified nothing but a waste of time and loss of words ; and if they were weak, and easy wrought on, it was a more decent way of corrupting them, by bribing their fancies, and biassing their affections ; and wondered much at that affectation of the French lawyers in imitating the Roman orators in their pleadings. For the oratory of the Romans was occasioned by their popular government, and the factions of the city, so that those who intended to excel in the pleading of causes, were trained up in the schools of the rhetoricians till they became ready and expert in that luscious way of discourse. It is true, the composures of such a man as Tully was, who mixed an extraordinary quickness, and exact judgment, and a just decorum with his skill in rhetoric, do still entertain the readers of them with great pleasure : but at the same time it must be acknowledged, that there

is not that chastity of style, that closeness of reasoning, nor that justness of figures in his orations, that are in his other writings; so that a great deal was said by him, rather because he knew it would be acceptable to his auditors, than that it was approved of by himself: and all who read them will acknowledge they are better pleased with them as essays of wit and style, than as pleadings, by which such a judge as ours was would not be much wrought upon. And, if there are such grounds to censure the performances of the greatest master in eloquence, we may easily infer what nauseous discourses the other orators made, since in oratory, as well as in poetry, none can do indifferently. So our judge wondered to find the French, that live under a monarchy, so fond of imitating that which was an ill effect of the popular government of Rome: he therefore pleaded himself always in few words, and close to the point; and when he was a judge, he held those that pleaded before him to the main hinge of the business, and cut them short when they made excursions about circumstances of no moment, by which he saved much time, and made the chief difficulties to be well stated and cleared.

There was another custom among the Romans, which he as much admired, as he despised their rhetoric, which was, that the jurisconsults were the men of the highest quality, who were bred to be capable of the chief employment in the state, and became the great masters of their law: these gave their opinions of all cases that were put to them freely, judging it below them

to take any present for it ; and indeed they only were the true lawyers among them, whose resolutions were of that authority, that they made one *classis* of those materials out of which Trebonian compiled the digests under Justinian ; for the orators, or *causidici* that pleaded causes, knew little of the law, and only employed their mercenary tongues to work on the affections of the people and senate, or the prætors : even in most of Tully's Orationes there is little of law : and that little which they might sprinkle in their declamations, they had not from their own knowledge, but the resolution of some jurisconsult : according to that famous story of Servius Sulpitius, who was a celebrated orator, and being to receive the resolution of one of those that were learned in the law, was so ignorant, that he could not understand it ; upon which the jurisconsult reproached him, and said, it was a shame for him that was a nobleman, a senator, and a pleader of causes, to be thus ignorant of law : this touched him so sensibly, that he set about the study of it, and became one of the most eminent jurisconsults that ever were at Rome. Our judge thought it might become the greatness of a prince to encourage such a sort of men and of studies ; in which, none in the age he lived in was equal to the great Selden, who was truly in our English law, what the old Roman jurisconsults were in theirs.

But where a decent eloquence was allowable, Judge Hale knew how to have excelled as much as any, either in illustrating his reasonings by proper and well pursued similes, or by such

tender expressions as might work most on the affections, so that the present lord chancellor has often said of him since his death, that he was the greatest orator he had known; for though his words came not fluently from him, yet when they were out, they were the most significant and expressive that the matter could bear: of this sort there are many in his Contemplations, made to quicken his own devotion, which have a life in them becoming him that used them, and a softness fit to melt even the harshest tempers, accommodated to the gravity of the subject, and apt to excite warm thoughts in the readers; that as they show his excellent temper that brought them out and applied them to himself, so they are of great use to all who would both inform and quicken their minds. Of his illustrations of things by proper similes, I shall here give a large instance out of his book of the Origination of Mankind, designed to expose the different hypotheses the philosophers fell on concerning the eternity and original of the universe, and to prefer the account given by Moses to all their conjectures; in which, if my taste does not misguide me, the reader will find a rare and very agreeable mixture, both of fine wit, and solid learning and judgment.

“That which may illustrate my meaning, in this preference of the revealed light of the holy scriptures, touching this matter, above the essays of a philosophical imagination, may be this. Suppose that Greece was unacquainted with the curiosity of mechanical engines, though known in some remote region of the world, and that an

excellent artist had secretly brought and deposited in some field or forest, some excellent watch or clock, which had been so formed that the original of its motion was hidden, and involved in some close contrived piece of mechanism; that this watch was so framed, that the motion thereof might have lasted a year, or some such time as might give a reasonable period for their philosophical descantings concerning it; and that in the plain table there had been not only the description and indication of hours, but the configurations and indications of the various phases of the moon, the motion and place of the sun in the ecliptic, and divers other curious indications of celestial motions; and that the scholars of the several schools, of Epicurus, of Aristotle, of Plato, and the rest of those philosophical sects, had casually in their walk found this admirable automaton; what kind of work would there have been made by every sect, in giving an account of this phenomenon? We should have had the Epicurean sect have told the bystanders, according to their preconceived hypothesis, that this was nothing else but an accidental concretion of atoms, that haply fallen together had made up the index, the wheels, and the balance; and that being haply fallen into this position, they were put into motion. Then the Cartesian falls in with him as to the main of their supposition, but tells him he doth not sufficiently explicate how the engine is put into motion, and therefore to furnish this motion there is a certain subtile material that pervades this engine; and the moveable

parts, consisting of several globular atoms apt for motion, they are thereby, and by the mobility of the globular atoms, put into motion. A third finding fault with the two former, because those motions are so regular, and do express the various phenomena of the distribution of time, and of the heavenly motions; therefore it seems to him that this engine and motion also, so analogical to the motions of the heavens, was wrought by some admirable conjunction of the heavenly bodies, which formed this instrument and its motions in such an admirable correspondence to its own existence. A fourth, disliking the suppositions of the three former, tells the rest that he hath a more plain and evident solution of the phenomenon; namely, The universal soul of the world, or spirit of nature, that formed so many sorts of insects with so many organs, faculties, and such congruity of their whole composition, and such curious and various motions as we may observe in them, hath formed and set into motion this admirable automaton, and regulated and ordered it with all these congruities we see in it. Then steps in an Aristotelian, and being dissatisfied with all the former solutions, tells them, 'Gentlemen, you are all mistaken; your solutions are inexplicable and unsatisfactory; you have taken up certain precarious hypotheses, and being prepossessed with these creatures of your own fancies, and in love with them, right or wrong, you form all your conceptions of things according to those fancied and preconceived imaginations. The short of the business is, this machina is eternal, and so

are all the motions of it; and inasmuch as a circular motion hath no beginning or end, this motion that you see both in the wheels and index, and the successive indications of the celestial motions, is eternal, and without beginning. And this is a ready and expedite way of solving the phenomena, without so much ado as you have made about it.'

"And whilst all the masters were thus contriving the solution of the phenomenon in the hearing of the artist that made it; and when they had all spent their philosophizing upon it, the artist that made this engine, and all this while listened to their admirable fancies, tells them, 'Gentlemen, you have discovered very much excellency of invention touching this piece of work that is before you, but you are all miserably mistaken: for it was I that made this watch, and brought it hither, and I will show you how I made it. First, I wrought the spring, and the fusee, and the wheels, and the balance, and the case, and table; I fitted them one to another, and placed these several axes that are to direct the motions, of the index to discover the hour of the day, of the figure that discovers the phases of the moon, and the other various motions that you see; and then I put it together, and wound up the spring, which hath given all these motions that you see in this curious piece of work: and that you may be sure I tell you true, I will tell you the whole order and progress of my making, disposing, and ordering of this piece of work, the several mate-

rials of it, the manner of the forming of every individual part of it, and how long I was about it.'

"This plain and evident discovery renders all these excogitated hypotheses of those philosophical enthusiasts vain and ridiculous, without any great help of rhetorical flourishes, or logical confutations. And much of the same nature is that disparity of the hypotheses of the learned philosophers in relation to the origination of the world and man, after a great deal of dust raised, and fanciful explications and unintelligible hypotheses. The plain but Divine narrative by the hand of Moses, full of sense, and congruity, and clearness, and reasonableness in itself, does at the same moment give us a true and clear discovery of this great mystery, and renders all the essays of the generality of the heathen philosophers to be vain, inevident, and indeed inexplicable theories, the creatures of phantasy and imagination, and nothing else."

CHAPTER VII.

JUDGE HALE'S PIETY HIS IMPARTIALITY AS A
JUDGE HIS GENEROSITY HIS BENEVOLENCE
TO THE POOR HIS FORGIVING TEMPER.

His virtues have appeared so conspicuous in all the several transactions and turns of his life, that it may seem needless to add any more of

them than has been already related ; but there are many particular instances which I knew not how to fit to the several years of his life, which will give us a clearer and better view of him.

He was a devout Christian, a sincere Protestant, and a true friend to all Christians ; moderate towards dissenters, and just even to those from whom he differed most ; which appeared signally in the care he took of preserving the Quakers from that mischief that was like to fall on them by declaring their marriages void, and so making their children illegitimates ; but he considered marriage and succession as a right of nature, from which none ought to be barred, what mistake soever they might be under in the points of revealed religion.

And therefore in a trial that was before him, when a Quaker was sued for some debts owing by his wife before he married her, and the Quaker's counsel pretended, that it was no marriage that had passed between them, since it was not solemnized according to the rules of the church of England ; he declared, that he was not willing on his own opinion to make their children illegitimates, and gave directions to the jury to find it special. It was a reflection on the whole party, that one of them, to avoid an inconvenience he had fallen in, thought to have preserved himself by a defence, that, if it had been allowed in law, must have made their whole issue illegitimates, and incapable of succession ; and for all their pretended friendship to one another, if this judge had not been more their friend than one of those they so called,

their posterity had been little beholden to them. But he governed himself indeed by the law of the Gospel, of doing to others what he would have others do to him ; and therefore, because he would have thought it a hardship not without cruelty, if amongst papists all marriages were nulled which had not been made with all the ceremonies in the Roman ritual, so he, applying this to the case of the sectaries, thought all marriages, made according to the several persuasions of men, ought to have their effects in law.

He used constantly to worship God in his family, performing it always himself, if there was no clergyman present. But, as to his private exercises in devotion, he took that extraordinary care to keep what he did secret, that this part of his character must be defective, except it be acknowledged that his humility in covering it commends him much more than the highest expressions of devotion could have done.

From the first time that the impressions of religion settled deeply in his mind, he used great caution to conceal it : not only in obedience to the rules given by our Saviour of fasting, praying, and giving alms in secret ; but from a particular distrust he had of himself, for he said he was afraid he should at some time or other do some enormous thing, which, if he were looked on as a very religious man, might cast a reproach on the profession of it, and give great advantages to impious men to blaspheme the name of God. But a tree is known by its fruits ; and he lived not only free from blemishes or

scandal, but shined in all the parts of his conversation. And perhaps the distrust he was in of himself contributed not a little to the purity of his life ; for he being thereby obliged to be more watchful over himself, and to depend more on the aids of the Spirit of God, no wonder if that humble temper produced those excellent effects in him.

He had a soul enlarged and raised above that mean appetite of loving money, which is generally the root of all evil. He did not take the profits that he might have had by his practice ; for in common cases, when those who came to ask his counsel gave him one pound, he used to give back the half, and so made ten shillings his fee, in ordinary matters that did not require much time or study. If he saw a cause was unjust, he for a great while would not meddle further in it, but to give his advice that it was so ; if the parties, after that, would go on, they were to seek another counsellor, for he would assist none in acts of injustice : if he found the cause doubtful or weak in point of law, he always advised his clients to agree their business. Yet afterwards he abated much of the scrupulosity he had about causes that appeared at first view unjust, upon this occasion : There were two causes brought to him, which by the ignorance of the party or their attorney, were so ill represented to him, that they seemed to be very bad, but he inquiring more narrowly into them, found they were really very good and just ; so after this, he slackened much of his former strictness, of refusing to meddle in

causes upon the ill circumstances that appeared in them at first.

In his pleading he abhorred those too common faults of misreciting evidences, quoting precedents or books falsely, or asserting things confidently; by which ignorant juries or weak judges are too often wrought on. He pleaded with the same sincerity that he used in the other parts of his life, and used to say it was as great a dishonour as a man was capable of, that for a little money he was to be hired to say or do otherwise than as he thought. All this he ascribed to the unmeasurable desire of heaping up wealth, which corrupted the souls of some that seemed to be otherwise born and made for great things.

When he was a practitioner, differences were often referred to him, which he settled, but would accept of no reward for his pains, though offered by both parties together, after the agreement was made; for he said in these cases he was made a judge, and a judge ought to take no money. If they told him he lost much of his time in considering their business, and so ought to be acknowledged for it; his answer was, as one that heard it told me, "Can I spend my time better, than to make people friends? Must I have no time allowed me to do good in?"

He was naturally a quick man, yet by much practice on himself, he subdued that to such a degree, that he would never run suddenly into any conclusion on matters of importance. *Festina lente*, "hasten slowly," was his beloved motto,

which he ordered to be engraven on the head of his staff, and was often heard to say that he had observed many witty men run into great errors, because they did not give themselves time to think, but the heat of imagination making some notions appear in good colours to them, they, without staying till that cooled, were violently led by the impulses it made on them; whereas calm and slow men, who pass for dull in the common estimation, could search after truth and find it out, as with more deliberation, so with greater certainty.

He laid aside the tenth penny of all he got for the poor, and took great care to be well informed of proper objects for his charities; and after he was a judge, many of the perquisites of his place, as his dividend of the rule and box-money, were sent by him to the gaols to discharge poor prisoners, who never knew from whose hands their relief came. It is also a custom for the marshal of the King's Bench to present the judges of that court with a piece of plate for a new year's gift, that for the Chief Justice being larger than the rest. This he intended to have refused, but the other judges told him it belonged to his office, and the refusing it would be a prejudice to his successors, so he was persuaded to take it; but he sent word to the marshal, that instead of plate, he should bring him the value of it in money, and when he received it, he immediately sent it to the prisons, for the relief and discharge of the poor there. He usually invited his poor neighbours to dine with him, and made them sit at

table with himself: and if any of them were sick, so that they could not come, he would send meat warm to them from his table: and he did not only relieve the poor in his own parish, but sent supplies to the neighbouring parishes, as there was occasion for it: and he treated them all with the tenderness and familiarity that became one, who considered they were of the same nature with himself, and were reduced to no other necessities but such as he himself might be brought to. But for common beggars, if any of these came to him, as he was in his walks, when he lived in the country, he would ask such as were capable of working, why they went about so idly? If they answered, it was because they could find no work, he often sent them to some field, to gather all the stones in it, and lay them on a heap, and then would pay them liberally for their pains. This being done, he used to send his carts, and caused them to be carried to such places of the highway as needed mending.

But when he was in town, he dealt his charities very liberally, even among the street beggars. And when some told him, that he thereby encouraged idleness, and that most of these were notorious cheats, he used to answer, that he believed most of them were such, but among them there were some that were great objects of charity, and pressed with grievous necessities; and that he had rather give his alms to twenty who might, perhaps, be rogues, than that one of the other sort should perish for want of that small relief which he gave them.

He loved building much, which he affected chiefly because it employed many poor people ; but one thing was observed in all his buildings, that the change he made in his houses was always from magnificence to usefulness ; for he avoided every thing that looked like pomp or vanity, even in the walls of his houses. He had good judgment in architecture, and an excellent faculty in contriving well.

He was a gentle landlord to all his tenants, and was ever ready, upon any reasonable complaints, to make abatements ; for he was merciful as well as righteous. One instance of this was, of a widow that lived in London, and had a small estate near his house in the country, from which her rents were ill returned to her, and at a cost which she could not well bear ; so she bemoaned herself to him, and he, according to his readiness to assist all poor people, told her he would order his steward to take up her rents, and the returning them should cost her nothing. But after that, when there was a falling of rents in that country, so that it was necessary to make abatements to the tenant, yet he would have it to lie on himself, and made the widow be paid her rent as formerly.

Another remarkable instance of his justice and goodness was, that when he found counterfeit money had been put into his hands, he would never suffer it to be vented again, for he thought it was no excuse for him to put false money in other people's hands because some had put it in his. A great heap of this he had gathered together ; for many had so far abused his good-

ness as to mix base money among the fees that were given him. It is likely he intended to have destroyed it; but some thieves, who had observed it, broke into his chamber and stole it, thinking they had got a prize; which he used to tell with some pleasure, imagining how they found themselves deceived when they perceived what sort of booty they had fallen on.

After he was made a judge, he would needs pay more for every purchase he made than it was worth. If it had been but a horse he was to buy, he would outbid the price: and when some represented to him that he made ill bargains, he said, it became judges to pay more for what they bought than the true value, that so those with whom they dealt might not think they had any right to their favour, by having sold such things to them at an easy rate; and said it was suitable to the reputation which a judge ought to preserve to make such bargains, that the world might see they were not too well used upon some secret account.

In fine, his estate showed how little he had minded the raising a great fortune; for, from a hundred pounds a year, he raised it not quite to nine hundred; and of this, a very considerable part came in by his share of Mr. Selden's estate; yet this, considering his great practice while a counsellor, and his constant frugal and modest way of living, was but a small fortune. In the share that fell to him by Mr. Selden's will, one memorable thing was done by him with the other executors, by which they both showed their regard to their dead friend, and

their love of the public. His library was valued at some thousands of pounds, and was believed to be one of the most curious collections in Europe; so they resolved to keep this entire for the honour of Selden's memory, and gave it to the University of Oxford, where a noble room was added to the former library for its reception; and all due respects have been since showed by that great and learned body to those their worthy benefactors, who not only parted so generously with this great treasure, but were a little put to it how to oblige them without crossing the will of their dead friend. Mr. Selden had once intended to give his library to that university, and had left it so by his will; but, having occasion for a manuscript which belonged to their library, they asked of him a bond of a thousand pounds for its restitution. This he took so ill at their hands, that he struck out that part of his will by which he had given them his library, and with decision, declared they should never have it. The executors stuck at this a little, but, having considered better of it, came to this resolution: that they were to be the executors of Mr. Selden's will, and not of his passion; so they made good what he had intended in cold blood, and passed over what his passion had suggested to him.

The parting with so many excellent books would have been as uneasy to our Judge as any thing of that nature could be, if a pious regard to his friend's memory had not prevailed over him, for he valued books and manuscripts above all things in the world: he himself had made a

great and rare collection of manuscripts belonging to the law of England ; he was forty years in gathering it ; he himself said it cost him about fifteen hundred pounds, and calls it, in his will, a treasure worth having and keeping, and not fit for every man's view. These all he left to Lincoln's-Inn.

By all these instances it does appear how much he was raised above the world, or the love of it. But having thus mastered things without him, his next study was to overcome his own inclinations. He was, as he said himself, naturally passionate ; I add, as he said himself, for that appeared by no other evidence, save that sometimes his colour would rise a little ; but he so governed himself, that those who lived long about him have told me, they never saw him disordered with anger, though he met with some trials that the nature of man is as little able to bear as any whatsoever.

There was one who did him a great injury, which it is not necessary to mention, who coming afterwards to him for his advice in the settlement of his estate, he gave it very frankly to him, but would accept of no fee for it, and thereby showed both that he could forgive as a Christian, and that he had the soul of a gentleman in him, not to take money of one that had wronged him so heinously. And when he was asked by one how he could use a man so kindly that had wronged him so much, his answer was, he thanked God he had learned to forget injuries.

CHAPTER VIII.

JUDGE HALE IN HIS FAMILY.....HIS PITY FOR
CRIMINALS HIS CARE OF BEASTS HIS LOVE
TO STUDIOUS YOUNG PERSONS HIS IDEAS OF
GOD.

BESIDES the great temper he expressed in all his public employments, in his family he was a very gentle master: he was tender of all his servants; he never turned any away, except they were so faulty that there was no hope of reclaiming them: when any of them had been long out of the way, or had neglected any part of their duty, he would not see them at their first coming home, and sometimes not till the next day, lest, when his displeasure was quick upon him, he might have chid them indecently; and when he did reprove them, he did it with that sweetness and gravity, that it appeared he was more concerned for their having done a fault, than for the offence given by it to himself: but if they became immoral or unruly, then he turned them away, for he said, he that by his place ought to punish disorders in other people, must by no means suffer them in his own house. He advanced his servants according to the time they had been about him, and would never give occasion to envy among them, by raising the

younger clerks above those who had been longer with him. He treated them all with great affection, rather as a friend than a master, giving them often good advice and instruction. He made those who had good places under him give some of their profits to the other servants, who had nothing but their wages. When he made his will, he left legacies to every one of them; but he expressed a more particular kindness for one of them, Robert Gibbon, Esq., of the Middle Temple, in whom he had that confidence that he left him one of his executors. I rather mention him, because of his noble gratitude to his worthy benefactor and master; for he has been so careful to preserve his memory, as to urge those on me at whose desire I undertook to write his life, and has procured for me a great part of those memorials and informations out of which I have composed it.

Judge Hale was of a most tender and compassionate nature; this did eminently appear in his trying and giving sentence upon criminals, in which he was strictly careful that not a circumstance should be neglected which might any way clear the fact. He behaved himself with that regard to the prisoners, which became both the gravity of a Judge, and the pity that was due to men whose lives lay at stake, so that nothing of jeering or unreasonable severity ever fell from him. He also examined the witnesses in the softest manner, taking care that they should be put under no confusion which might disorder their memory; and he summed up all the evidence so equally when he charged the

jury, that the criminals themselves never complained of him. When it came to him to give sentence, he did it with that composedness and decency, and his speeches to the prisoners, directing them to prepare for death, were so weighty, so free from all affectation, and so serious and devout, that many loved to go to the trials when he sat Judge, to be edified by his speeches and behaviour in them; and used to say, they heard very few such sermons.

But though the pronouncing of the sentence of death was the piece of his employment that went most against the grain with him; yet in that he could never be mollified to any tenderness which hindered justice. When he was once pressed to recommend some, whom he had condemned, to his majesty's mercy and pardon; he answered, he could not think they deserved a pardon, whom he himself had adjudged to die; so that all he would do in that kind was to give the King a true account of the circumstances of the fact; after which his majesty was to consider whether he would interpose his mercy, or let justice take place.

His mercifulness extended even to his beasts; for when the horses that he had kept long, grew old, he would not suffer them to be sold, or much worked, but ordered his men to turn them loose on his grounds, and put them only to easy work, such as going to market and the like: he used old dogs also with the same care; his shepherd having one that was become blind with age, he intended to have killed or lost him, but the Judge coming to hear of it, made

one of his servants bring him home, and fed him till he died : and he was scarce ever seen more angry than with one of his servants for neglecting a bird that he kept, so that it died for want of food.

He was a great encourager of all young persons that he saw followed their books diligently ; to whom he used to give directions concerning the method of their study, with a humanity and sweetness that wrought much on all that came near him : and in a smiling, pleasant way he would admonish them if he saw any thing amiss in them ; particularly, if they went too fine in their clothes, he would tell them it did not become their profession. He was not pleased to see students wear long periwigs, or attorneys to go with swords ; so that such young men as would not be persuaded to part with those vanities, when they went to him laid them aside, and went as plain as they could, to avoid the reproof which they knew they might otherwise expect.

He was very free and communicative in his discourse, which he most commonly fixed on some good and useful subject, and loved for an hour or two at night to be visited by some of his friends. He neither said nor did any thing with affectation, but used a simplicity that was both natural to himself and very easy to others. And though he never studied the modes of civility or court breeding, yet he knew not what it was to be rude or harsh with any, except he were impertinently addressed to in matters of

justice ; then he would raise his voice a little, and so shake off those importunities.

In his furniture, and the service of his table, and way of living, he liked the old plainness so well, that as he would set up none of the new fashions, so he rather affected a coarseness in the use of the old ones : which was more the effect of his philosophy than disposition, for he loved fine things too much at first : he was always of an equal temper, rather cheerful than merry. Many wondered to see the evenness of his deportment in some very sad passages of his life.

Having lost one of his sons, the manner of whose death had some grievous circumstances in it ; one coming to see him and condole, he said to him, those were the effects of living long ; such must look to see many sad and unacceptable things ; and having said that, he went to other discourses with his ordinary freedom of mind ; for though he had a temper so tender that sad things were apt enough to make deep impressions upon him, yet the regard he had to the wisdom and providence of God, and the just estimate he made of all external things, did to admiration maintain the tranquillity of his mind ; and he gave no occasion by idleness or melancholy to corrupt his spirit ; but by the perpetual bent of his thoughts, he knew well how to divert them from being oppressed with the excesses of sorrow.

He had a generous and noble idea of God in his mind, and this he found did above all other considerations preserve his quiet : and indeed

that was so well established in him, that no accidents, how sudden soever, were observed to discompose him : of which an eminent man of that profession gave me this instance. In the year 1666, an opinion did run through the nation that the end of the world would come that year : this, whether set on by astrologers, or advanced by those who thought it might have some relation to the number of the beast in the Revelation, or promoted by men of ill designs to disturb the public peace, had spread mightily among the people ; and Judge Hale going that year the western circuit, it happened that as he was on the bench at the assizes, a most terrible storm fell out very unexpectedly, accompanied with such flashes of lightning, and claps of thunder, that the like will hardly fall out in an age ; upon which a whisper or rumour ran through the crowd, that now was the world to end, and the day of judgment to begin. At this there followed a general consternation in the whole assembly, and all men forgot the business they were met about, and betook themselves to their prayers : this, added to the horror raised by the storm, looked very dismally ; inso-much that my author, a man of no ordinary resolution and firmness of mind, confessed it made a great impression on himself. But he told me, that he did observe the Judge was not a whit affected, and was going on with the business of the court in his ordinary manner ; from which he made this conclusion, that his thoughts were so well fixed, that he believed if the world had been really to end, it would have given him no considerable disturbance.

But I shall now conclude all that I shall say concerning him, with what one of the greatest men of the profession of the law sent me as an abstract of the character he had made of him, upon long observation and much converse with him: it was sent me, that from thence, with the other materials, I might make such a representation of him to the world as he indeed deserved. But I resolved not to shred it out in parcels, but to set it down entirely as it was sent me; hoping that as the reader will be much delighted with it, so the noble person that sent it will not be offended with me for keeping it entire, and setting it in the best light I could. It begins abruptly, being designed to supply the defects of others, from whom I had earlier and more copious information.

“He would never be brought to discourse of public matters in private conversation; but in questions of law, when any young lawyer put a case to him, he was very communicative, especially while he was at the bar; but when he came to the bench, he grew more reserved, and would never suffer his opinion in any case to be known till he was obliged to declare it judicially; and he concealed his opinion in great cases so carefully, that the rest of the Judges in the same court could never perceive it. His reason was, because every Judge ought to give sentence according to his own persuasion and conscience, and not to be swayed by any respect or deference to another man’s opinion: and by this means it hath happened sometimes, that when all the barons of the exchequer had deliv-

ered their opinions, and agreed in their reasons and arguments; yet he coming to speak last, and differing in judgment from them, hath expressed himself with so much weight and solidity, that the barons have immediately retracted their votes and concurred with him. He hath sat as a Judge in all the courts of law, and in two of them as chief; but still wherever he sat, all business of consequence followed him, and no man was content to sit down by the judgment of any other court, till the case were brought before him, to see whether he were of the same mind; and his opinion being once known, men did readily acquiesce in it; and it was very rarely seen that any man attempted to bring it about again; and he that did so, did it upon great disadvantages, and was always looked upon as a very contentious person; so that what Cicero says of Brutus, did very often happen to him, 'Those against whom he decided, he dismissed satisfied and appeased.'

"Nor did men reverence his judgment and opinion in courts of law only; but his authority was as great in courts of equity, and the same respect and submission was paid to him there too. And this appeared not only in his own court of equity in the exchequer chamber, but in the chancery too, for thither he was often called to advise and assist the lord chancellor, or lord keeper for the time being; and if the cause were of difficult examination, or intricate, and entangled with variety of settlements, no man ever showed a more clear and discerning judgment. If it were of great value, and great

persons interested in it, no man ever showed greater courage and integrity in laying aside all respect of persons. When he came to deliver his opinion, he always put his discourse into such a method, that one part of it gave light to the other ; and where the proceedings of chancery might prove inconvenient to the subject, he never spared to observe and reprove them. And from his observations and discourses, the chancery hath taken occasion to establish many of those rules by which it governs itself at this day.

“He did look upon equity as a part of the common law, and one of the grounds of it ; and therefore, as near as he could, he did always reduce it to certain rules and principles, that men might study it as a science, and not think the administration of it had any thing arbitrary in it. Thus eminent was this man in every station, and into what court soever he was called, he quickly made it appear that he deserved the chief seat there.

“As great a lawyer as he was, he would never suffer the strictness of law to prevail against conscience ; as great a chancellor as he was, he would make use of all the niceties and subtleties in law, when it tended to support right and equity. But nothing was more admirable in him than his patience. He did not affect the reputation of quickness and despatch by a hasty and captious hearing of the counsel : he would bear with the meanest, and gave every man his full scope, thinking it much better to lose time than patience. In summing up of an

evidence to a jury, he would always require the bar to interrupt him if he did mistake, and to put him in mind of it if he did forget the least circumstance. Some judges have been disturbed at this as rudeness, which he always looked upon as a service and respect done to him.

“ His whole life was nothing else but a continual course of labour and industry ; and when he could borrow any time from the public service, it was wholly employed either in philosophical or divine meditations, and even that was a public service too, as it hath proved ; for they have occasioned his writing of such treatises, as are become the choicest entertainment of wise and good men, and the world hath reason to wish that more of them were printed. He that considers the active part of his life, and with what unwearied diligence and application of mind he despatched all men’s business which came under his care, will wonder how he could find any time for contemplation. He that considers again the various studies he passed through, and the many collections and observations he hath made, may as justly wonder how he could find any time for action. But no man can wonder at the exemplary piety and innocence of such a life so spent as this was, wherein as he was careful to avoid every idle word, so it is manifest he never spent an idle day. They who come far short of this great man, will be apt enough to think that this is a panegyric, which indeed is a history, and but a little part of that history which was with great

truth to be related of him. Men who despair of attaining such perfection, are not willing to believe that any man else did ever arrive at such a height.

“ He was the greatest lawyer of the age, and might have had what practice he pleased ; but though he did most conscientiously affect the labours of his profession, yet at the same time he despised the gain of it ; and of those profits which he would allow himself to receive, he always set apart a tenth penny for the poor, which he ever dispensed with that secrecy, that they who were relieved seldom or never knew their benefactor. He took more pains to avoid the honours and preferments of office, than others do to obtain them. His modesty was beyond all example ; for where some men who never attained to half his knowledge, have been puffed up with a high conceit of themselves, and have affected all occasions of raising their own esteem by depreciating other men, he, on the contrary, was the most obliging man that ever practised. If a young gentleman happened to be retained to argue a point in law, where he was on the contrary side, he would very often mend the objections when he came to repeat them, and always commend the gentleman if there were room for it ; and one good word of his was of more advantage to a young man than all the favour of the court could be.”

Having thus far pursued his history and character in the public and exemplary parts of his life, without interrupting the thread of the

relation with what was private and domestic, I shall conclude with a short account of these.

He was twice married; his first wife was Anne, daughter of Sir Henry Moore, of Faly in Berkshire, grandchild to Sir Francis Moore, sergeant at law. By her he had ten children; the four first died young, the other six lived to be all married; and he outlived them all, except his eldest daughter and his youngest son, who survived him.

Respecting his books in manuscript, he ordered by a codicil, "that if any book of his writing, as well touching the common law as other subjects, should be printed; then, what should be given for the consideration of the copy, should be divided into ten shares, of which he appointed seven to go among his servants, and three to those who had copied them out and were to look after the impression."

Thus lived and died Sir Matthew Hale, the renowned Lord Chief Justice of England. He had one of the blessings of virtue in the highest measure of any of the age, that does not always follow it, which was, that he was universally much valued and admired by men of all parties and persuasions. For as none could hate him but for his justice and virtues, so the great estimation he was generally in, caused, that few durst undertake to defend so ungrateful a paradox, as any thing said to lessen him would have appeared to be. His name is scarcely ever mentioned since his death, without particular accents of singular respect. His opinion in points of law generally passes as an uncontrolla-

ble authority, and is often pleaded in all the courts of justice. And all that knew him well, do still speak of him as one of the most perfect patterns of religion and virtue they ever saw.

The commendations given him by all sorts of people are such, that I can hardly come under the censures of this age for any thing I have said concerning him; yet if this book lives to after times, it will be looked on perhaps as a picture, drawn more according to fancy and invention, than after the life, if it were not that those who knew him well, establishing its credit in the present age, will make it pass down to the next with a clearer authority.

I shall pursue his praise no further in my own words, but shall add what the present lord chancellor of England, Sir Heneage Finch, said concerning him, when he delivered the commission to Lord Chief Justice Rainsford, who succeeded him in that office, which he began in this manner:

“The vacancy of the seat of the Chief Justice of this court, and that by a way and means so unusual as the resignation of him that lately held it, and this too proceeding from so deplorable a cause as the infirmity of that body which began to forsake the ablest mind that ever presided here, hath filled the kingdom with lamentations, and given the King many and pensive thoughts how to supply that vacancy again.” And a little after, speaking to his successor, he said, “The very labours of the place, and that weight and fatigue of business which attends it, are no small discouragements; for what shoulders may not justly fear that burthen which made

him stoop that went before you? Yet I confess you have a greater discouragement than the mere burthen of your place, and that is, the inimitable example of your last predecessor: 'It is burdensome to succeed a good chief,' was the saying of him in the panegyric; and you will find it so too that now are to succeed such a Chief Justice, of so indefatigable an industry, so invincible a patience, so exemplary an integrity, and so magnanimous a contempt of worldly things, without which no man can be truly great; add to all this, a man that was so absolute a master of the science of the law, and even of the most abstruse and hidden parts of it, that one may truly say of his knowledge in the law, what St. Austin said of St. Hierom's knowledge in divinity, 'What St. Hierom was ignorant of, no man ever knew.' And therefore the King would not suffer himself to part with so great a man, till he had placed upon him all the marks of bounty and esteem which his retired and weak condition was capable of."

To this high character, in which the expressions, as they well become the eloquence of him who pronounced them, so they do agree exactly to the subject, without the abatements that are often to be made for rhetoric, I shall add that part of the lord chief justice's answer, in which he speaks of his predecessor.

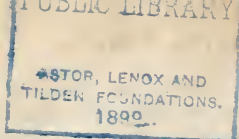
"A person in whom his eminent virtues and deep learning have long managed a contest for the superiority, which is not decided to this day, nor will it ever be determined, I suppose, which shall get the upper hand. A person that has sat in this court these many years, of whose

actions there I have been an eye and ear witness, that by the greatness of his learning always charmed his auditors to reverence and attention: a person, of whom I think I may boldly say, that as former times cannot show any superior to him, so I am confident succeeding and future time will never show any equal. These considerations, heightened by what I have heard from your Lordship concerning him, made me anxious and doubtful, and put me to a stand how I should succeed so able, so good, and so great a man. It doth very much trouble me that I, who in comparison of him am but like a candle lighted in the sunshine, or like a glowworm at mid-day, should succeed so great a person, that is and will be so eminently famous to all posterity; and I must ever wear this motto in my breast to comfort me, and in my actions to excuse me —

‘It is burdensome to succeed a good chief.’

Thus were panegyrics made upon him while yet alive, in that same court of justice which he had so worthily governed. As he was honoured while he lived, so he was much lamented when he died; and this will still be acknowledged as a just inscription for his memory, though his modesty forbade any such to be put on his tomb-stone :

THAT HE WAS ONE OF THE GREATEST PATTERNS THIS AGE HAS AFFORDED, WHETHER IN HIS PRIVATE DEPARTMENT AS A CHRISTIAN, OR IN HIS PUBLIC EMPLOYMENT, EITHER AT THE BAR OR ON THE BENCH.



REV. RICHARD BAXTER'S

RECOLLECTIONS

OF

SIR MATTHEW HALE.

SINCE the history of Judge Hale's life is published, written by Dr. Burnet, some men have thought, that because my familiarity with him was known, and the last time of a man's life is supposed to contain his maturest judgment, time, study, and experience correcting former oversights; the notice that I had of him in the latter years of his life should not be omitted.

I was never acquainted with him till 1667, and therefore have nothing to say of the former part of his life; nor of the latter, as to any public affairs, but only of what our familiar converse acquainted me: but the visible effects made me wonder at the industry and unwearied labours of his former life. He was so set on study, that he resolutely avoided all necessary diversions, and so little valued either grandeur, wealth, or any worldly vanity, that he avoided them to that notable degree, which incompetent judges took

to be an excess. His habit was so coarse and plain, that I, who am thought guilty of a culpable neglect therein, have been bold to desire him to lay by some things which seemed too homely. The house which I surrendered to him, and wherein he lived at Acton, was indeed well situated, but very small, and so far below the ordinary dwellings of men of his rank, as that divers farmers thereabouts had better; but it pleased him. His housekeeping was according to the rest, like his estate and mind, but not like his place and honour: for he resolved never to grasp at riches, nor take great fees, but would refuse what many others thought too little. I wondered when he told me how small his estate was, after such ways of getting as were before him: but as he had little, and desired little, so he was content with little, and suited his dwelling, table, and retinue thereto. He greatly shunned the visits of great persons, that came not to him on necessary business, because all his hours were precious to him, and therefore he contrived the avoiding of them, and the free enjoyment of his beloved privacy.

I must with a glad remembrance acknowledge, that while we were so unsuitable in places and worth, yet some suitableness of judgment and disposition made our frequent converse pleasing to us both. The last time but one, that I was at his house, he made me lodge there, and in the morning inviting me to more frequent visits, said, no man shall be more welcome; and he was no dissembler. To signify his love, he put

my name as a legatee in his will, bequeathing me forty shillings.

God made him a public good, which is more than to get riches. His great judgment and known integrity commanded respect from those that knew him; so that I verily think, that no one subject since the days that history hath notified the affairs of England to us, went off the stage with greater and more universal love and honour.

His resolution for justice was so great, that I am persuaded, that no wealth nor honour would have hired him knowingly to do one unjust act. And though he left us in sorrow, I cannot but acknowledge it a great mercy to him, to be taken away when he was. Alas! what would the good man have done, if he had been put by plotters, and traitors, and swearers, and perjurers, upon all that his successors have been put to? In likelihood, even all his great wisdom and sincerity could never have got him through such a wilderness of thorns, and briars, and wild beasts, without tearing in pieces his entire reputation, if he had never so well secured his conscience. O! how seasonably did he avoid the tempest and go to Christ.

Though some mistook this man for a mere philosopher or humanist, that knew him not within; yet his most serious description of the sufferings of Christ, and his copious volumes to prove the truth of the Scripture, Christianity, our immortality, and the Deity, do prove so much reality in his faith and devotion, as makes us past doubt of his reward and glory. When

he found his breath and strength much abate, and his face and flesh decay, he cheerfully received the sentence of death ; and he told me he was prepared and contented comfortably to receive his change.

My acquaintance with him was not long : and I looked on him as an excellent person studied in his own way. We were often together, and almost all our discourse was philosophical, and especially about the nature of spirits and superior regions ; and the nature, operations, and immortality of man's soul. And our disposition and course of thoughts were in such things so like, that I did not much cross the bent of his conference. He studied physics, and got all new or old books of philosophy that he could meet with, as eagerly as if he had been a boy at the University. Mathematics he studied more than I did, it being a knowledge which he much more esteemed than I did ; who valued all knowledge by the greatness of the benefit, and necessity of the use ; and my unskilfulness in them, I acknowledge was my great defect, in which he much excelled.

Whenever we were together, he was the spring of our discourse, as choosing the subject ; and most of it still was of the nature of spirits, and the immortality, state, and operations of separated souls. We both were conscious of human darkness, and how much of our understandings, quiet in such matters, must be fetched from our implicit trust in the goodness and promises of God, rather than from a clear and satisfying conception of the mode of separated

souls' operations; and how great use we have herein of our faith in Jesus Christ, as he is the undertaker, mediator, the Lord and lover of souls, and the actual possessor of that glory. But yet we thought, that it greatly concerned us, to search as far as God allowed us, into a matter of so great moment; and that even little and obscure prospects into the heavenly state, are more excellent than much and applauded knowledge of transitory things.

He was much in urging difficulties and objections; but you could not tell by them what was his own judgment: for when he was able to answer them himself, he would draw out another's answer.

He was but of a slow speech, and sometimes so hesitating, that a stranger would have thought him a man of low parts, that knew not readily what to say, though ready at other times. But I never saw Cicero's doctrine de Oratore more verified in any man, that furnishing the mind with all sorts of knowledge is the chief thing to make an excellent orator; for when there is abundance and clearness of knowledge in the mind, it will furnish even a slow tongue to speak that which by its congruence and verity shall prevail. Such a one never wants moving matter, nor an answer to vain objectors.

The manner of our converse was as suitable to my inclination as the matter. I do not remember that ever he and I did interrupt each other in any discourse. His wisdom and accustomed patience caused him still to stay for the end.

He was much for coming to philosophical knowledge by the help of experiments : but he thought that our new philosophers, as some call the Cartesians, had taken up many fallacies as experiments, and had made as unhappy a use of their trials, as many empyricks and mountebanks do in medicine.

As to his judgment about religion ; our discourse was very sparing about controversies. He thought not fit to begin with me about them, nor I with him : and as it was in me, so it seemed to be in him, from a conceit that we were not fit to pretend to add much to one another.

I must say that he was of opinion, that the wealth and honour of the bishops was convenient, to enable them the better to relieve the poor, and rescue the inferior clergy from oppression, and to keep up the honour of religion in the world. But all this on supposition, that it would be in the hands of wise and good men, or else it would do as much harm. But when I asked him, whether great wealth and honour would not be most earnestly desired and sought by the worst of men, while good men would not seek them ? And whether he that was the only fervent seeker, was not likeliest to obtain, except under some rare extraordinary prince ? And so, whether it was not like to entail the office on the worst, and to arm Christ's enemies against him to the end of the world, which a provision that had neither alluring nor much discouraging temptation might prevent, he gave me no answer. I have heard some say, if the Pope were a good

man, what a deal of good might he do ! But have Popes therefore blest the world ?

I can say truly, that he greatly lamented the negligence, and ill lives, and violence of some of the clergy ; and would often say, What have they their calling, honour and maintenance for, but to seek the instructing and saving of men's souls ?

He much lamented that so many worthy ministers were silenced, the church weakened, papists strengthened, the cause of love and piety greatly wronged and hindered by differences about conformity.

I had but one fear or suspicion concerning him, which since, I am assured was groundless : I was afraid lest he had been too little for the practical part of religion, as to the working of the soul towards God, in prayer, meditation, &c. because he seldom spoke to me of such subjects, nor of practical books, or sermons ; but was still speaking of philosophy, or of spirits, souls, the future state, and the nature of God. But at last I understood that his averseness to hypocrisy made him purposely conceal the most of such of his practical thoughts and works, as the world now findeth by his contemplations and other writings.

He told me once, how God brought him to a fixed honour and observation of the Lord's day : that when he was young, being in the west, the sickness or death of some relation at London, made some matter of estate to become his concernment ; which required his hastening to London from the west : and he was commanded

to travel on the Lord's day ; but I cannot well remember how many cross accidents befel him in his journey. One horse fell lame, another died, and much more ; which struck him with such sense of divine rebuke, as he never forgot.

When I went out of the house, in which he succeeded me, I went into a greater, over against the church door. The town having great need of help for their souls, I preached between the public sermons in my house, taking the people with me to the church, to common prayer and sermon, morning and evening. The judge told me that he thought my course did the church much service ; and would carry it so respectfully to me at my door, that all the people might perceive his approbation. But Dr. Reeves could not bear it, but complained against me ; and the Bishop of London caused one Mr. Rosse, of Brainford, and Mr. Philips, two justices of the peace, to send their warrants to apprehend me. I told the Judge of the warrant, but asked him no counsel, and he gave me none ; but with tears showed his sorrow : the only time that ever I saw him weep. So I was sent to the common gaol for six months, by these two justices, by the procurement of the said Dr. Reeves, his majesty's chaplain, dean of Wolverhampton, parson of Horseley, and parson of Acton. When I came to move for my release upon a habeas corpus, by the counsel of my great friend Sergeant Fountain, I found that the character which Judge Hale had given of me, stood me in some stead ; and every one of the four judges of the common pleas, did not

only acquit me, but said more for me than my counsel.

And indeed Judge Hale would tell me, that Bishop Usher was much prejudiced against lawyers, because the worst causes find their advocates; but that he and Mr. Selden had convinced him of the reasons of it, to his satisfaction: and that he did by acquaintance with them, believe that there were as many honest men among lawyers, proportionably, as among any profession of men in England, not excepting bishops or divines.

And I must needs say, that the improvement of reason, the diverting men from sensuality and idleness, the maintaining of propriety and justice, and consequently the peace and welfare of the kingdom, are very much to be ascribed to the judges and lawyers.

But this imprisonment brought me the great loss of converse with Judge Hale: for the parliament in the next act against conventicles, put into it divers clauses, suited to my case; by which I was obliged to go dwell in another county, and to forsake both London and my former habitation; and yet the justices of another county were partly enabled to pursue me.

Before I went, the judge had put into my hand four volumes in folio, which he had written, to prove the being and providence of God, the immortality of the soul, and life to come, the truth of Christianity, and of every book of the Scripture by itself, besides the common proofs of the whole. Three of the four volumes I had read over, and was sent to the gaol before I

read the fourth. I turned down a few leaves for some small animadversions, but had no time to give them to him. I could not then persuade him to review them for the press. The only fault I found with them of any moment, was their great copiousness.

When he had striven awhile under his disease, he gave up his place, not so much from the apprehension of the nearness of his death, for he could have died comfortably in his public work, but from the sense of his disability to discharge his part: but he ceased not his studies, and that upon points which I could have wished him to let go, being confident that he was not far from his end.

I sent him a book which I newly published, for reconciling the controversies about predestination, grace, and free-will, but desired him not to bestow too much of his precious time upon it: but, before he left his place, I found him at it so often, that I took the boldness to tell him, that I thought more practical writings were more suitable to his case, who was going from this contentious world. He gave me but little answer; but I after found that he plied practicals and contemplatives in their season; which he never thought meet to give me any account of. Only in general he oft told me, that the reason and season of his writings against Atheism, &c. aforesaid, were, both in his circuit at home, he used to set apart some time for meditation, especially after the evening public worship every Lord's day.

Notwithstanding his own great furniture of

knowledge, and he was accounted somewhat tenacious of his conceptions, yet I must say, that I remember not that ever I conversed with a man that was more ready to receive and learn. He would hear patiently, and recollect all distinctly, and then try it judiciously, not disdaining to learn of an inferior in some things, who in more had need to learn of him. I never more perceived in any man, how much do great knowledge and wisdom facilitate additions, and the reception of any thing not before known. Such a one presently perceiveth that evidence which another is incapable of.

The last time but one that I saw him, in his weakness at Acton, he engaged me to explicate the doctrine of divine government and decree, as consistent with the sin of man. And when I had distinctly told him, 1. What God did, as the author of nature, physically ; 2. What he did as legislator, morally ; and 3. What he did, as benefactor, and by special grace ; 4. And where permission came in, and where actual operations ; 5. And so, how certainly God might cause the effects, and not cause the volitions, as determinate to evil,—though the volition and effect being called by one name, as theft, murder, adultery lying, &c., oft deceive men,—he took up all that I had said in order, and distinctly twice over repeated each part in its proper place, and with its reason : and when he had done, said, that I had given him satisfaction.

Before I knew what he did himself in contemplations, I took it not well that he more than

once told me, " Mr. Baxter, I am more beholden to you than you are aware of; and I thank you for all, but especially for your scheme, and your catholic theology." For I was sorry, that a man that I thought so near death, should spend much of his time on such controversies, though tending to end them. But he continued after, near a year, and had leisure for contemplations which I knew not of.

When I parted with him, I doubted which of us would be first in heaven: but he is gone before, and I am at the door, and somewhat the willing to go, when I think such souls as his are there.

When he was gone to Gloucestershire, and his contemplations were published, I sent him the confession of my censures of him, how I had feared that he had allowed too great a share of his time and thoughts to speculation, and too little to practicals, but rejoiced to see the conviction of my error: and he returned me a very kind letter, which was the last.

Whenever the discourse came up to the faultiness of any individuals, he would be silent: but the sorts of faulty persons he would blame with freedom, especially idle, proud, scandalous, contentious, and factious clergymen. We agreed in nothing more than that which he oft repeated in the papers which you gave me, and which he often expressed, viz. that true religion consisteth in great, plain, necessary things, the life of faith and hope, the love of God and man, an humble, self-denying mind, with mortification of worldly affection, carnal

lust, &c. And that the calamity of the church, and withering of religion, hath come from proud and busy men's additions, that cannot give peace to themselves and others, by living in love and quietness on this Christian simplicity of faith and practice, but vex and turmoil the church with these needless and hurtful superfluities; some by their decisions of words, or unnecessary controversies; and some by their restless reaching after their own worldly interest, and corrupting the church, on pretence of raising and defending it; some by their needless ceremonies, and some by their superstitious and causeless scruples. But he was especially angry at them that would so manage their differences about such things, as to show, that they had a greater zeal for their own additions, than for the common saving truths and duties which we were all agreed in; and who did so manage their several little and selfish causes, as wounded or injured the common cause of the Christian and reformed churches.

His main desire was, that as men should not be peevishly quarrelsome against any lawful circumstances, forms, or orders in religion, much less think themselves godly men, because they can fly from other men's circumstances, or settled lawful orders as sin; so especially, that no human additions of opinion, order, modes, ceremonies, professions, or promises, should ever be managed to the hindering of Christian love and peace, nor of the preaching of the gospel, nor the wrong of our common cause, or the strengthening of atheism, infidel-

ity, profaneness, or Popery ; but that Christian verity and piety, the love of God and man, and a good life, and our common peace in these, might be first resolved on and secured, and all our additions might be used, but in due subordination to these, and not to the injury of any of them ; nor sects, parties, or narrow interests be set up against the common duty, and the public interest and peace.

He was much against the corrupting of the Christian religion, whose simplicity and purity he justly took to be much of its excellency, by men's busy additions, by wit, policy, ambition, or any thing else which sophisticateth it, and maketh it another thing, and causeth the lamentable contentions of the world.

What he was as a lawyer, a Judge, a Christian, is so well known, that I think for me to pretend that my testimony is of any use, were vain. I will only tell you what I have written by his picture, in the front of the great Bible which I bought with his legacy, in memory of his love and name, viz.

“ Sir Matthew Hale, that unwearied student, that prudent man, that solid philosopher, that famous lawyer, that pillar and basis of justice, who would not have done an unjust act for any worldly price or motive, the ornament of his majesty's government, and honour of England ; the highest faculty of the soul of Westminster-hall, and pattern to all the reverend and honorable Judges ; that godly, serious, practical Christian, the lover of goodness and all good men ; a

lamenter of the clergy's selfishness, and unfaithfulness, and discord, and of the sad divisions following hereupon; an earnest desirer of their reformation, concord, and the church's peace, and of a reformed act of uniformity, as the best and necessary means thereto; that great contemner of the riches, pomp and vanity of the world; that pattern of honest plainness and humility, who, while he fled from the honours that pursued him, was yet Lord Chief Justice of the king's bench, after his being long Lord Chief Baron of the exchequer; living and dying, entering on, using, and voluntarily surrendering his place of judicature, with the most universal love, and honour, and praise, that ever did English subject in this age, or any that just history doth acquaint us with, &c. This man, so wise, so good, so great, bequeathing me in his testament the legacy of forty shillings, merely as a testimony of his respect and love, I thought this book, the testament of Christ, the meetest purchase by that price, to remain in memorial of the faithful love, which he bare and long expressed to his inferior and unworthy, but honouring friend, who thought to have been with Christ before him, and waiteth for the day of his perfect conjunction with the spirits of the just made perfect."

RICHARD BAXTER.

B. H. C.

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